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RECIPROCAL TRADE AND INVESTMENT ACT

HEARING

BEFORE THE

SUBCOMMITTEE ON INTERNATIONAL TRADE

OF THE

COMMITTEE ON FINANCE
UNITED STATES SENATE

NINETY-EIGHTH CONGRESS

FIRST SESSION

ON

S. 144

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RECIPROCAL TRADE AND INVESTMENT ACT

FRIDAY, FEBRUARY 4, 1983

U.S. SENATE,
SUBCOMMITTEE ON INTERNATIONAL TRADE,
COMMITTEE ON FINANCE,
Washington, D.C.

The subcommittee met, pursuant to notice, at 9:41 a.m., in room SD-215, Dirksen Senate Office Building, Hon. John C. Danforth (chairman of the subcommittee) presiding.

Present: Senators Dole, Danforth, Heinz, Bentsen, Long, and Bradley.

[The committee press release announcing the hearing, prepared statements by Senators Danforth, Heinz, Grassley, and Boren follow:]

Press Release No. 83-106

PRESS RELEASE

FOR IMMEDIATE RELEASE
January 28, 1983

UNITED STATES SENATE
Committee on Finance
Subcommittee on International Trade
SD-221 Dirksen Senate Office Building
(Formerly 2227 Dirksen)

FINANCE SUBCOMMITTEE ON INTERNATIONAL TRADE SETS PUBLIC HEARING ON S. 144, THE RECIPROCAL TRADE AND INVESTMENT ACT

The Honorable John C. Danforth, Chairman of the Subcommittee on International Trade of the Senate Committee on Finance, announced today that the Subcommittee will hold a hearing on S. 144, The Reciprocal Trade and Investment Act, on Friday, February 4, 1983.

The hearing will begin at 9:30 a.m. in Room SD-215 (formerly 2221) of the Dirksen Senate Office Building.

Senator Danforth indicated that this bill is essentially the same bill as S. 2094, reported favorably by the Committee on Finance during the 97th Congress. Senator Danforth stated "that the bill is designed to insure that U.S. exporters receive fair and equitable market access opportunities in foreign markets." He noted that "the bill also contains negotiating mandates in the areas of trade in services, high technology products, and investment performance requirements requested by the President in the state of the Union address."

Requests to testify.--Witnesses who desire to testify at the hearing must submit written requests to Robert E. Lighthizer, Chief Counsel, Committee on Finance, Room SD-221 (formerly 2227) Dirksen Senate Office Building, Washington, D.C. 20510, to be received not later than noon on Wednesday, February 2, 1983. Witnesses will be notified as soon as practicable thereafter whether it has been possible to schedule them to present oral testimony. If for some reason a witness is unable to appear at the time scheduled, he may file a written statement for the record in lieu of the personal appearance. In such case, a witness should notify the Committee as soon as possible of his inablity to appear.

Consolidated testimony.--Senator Danforth urges all witnesses who have a common position or who have the same general interest to consolidate their testimony and designate a single spokesman to present their common viewpoint orally to the Subcommittee. This procedure will enable the Subcommittee to receive a wider expression of views than they might otherwise obtain. Senator

STATEMENT OF
CHAIRMAN JOHN C. DANFORTH
INTERNATIONAL TRADE SUBCOMMITTEE

PUBLIC HEARING ON THE RECIPROCAL TRADE AND INVESTMENT ACT (S.144)

Today the Committee will hear testimony on S.144, The Reciprocal Trade and Investment Act. Senator Bentsen and I introduced this legislation on January 26. To date, 32 other Senators have joined us in cosponsoring the measure.

The Reciprocal Trade and Investment Act is designed to increase American exports and export-related jobs through stronger enforcement and expansion of domestic and international rules dealing with foreign unfair trade practices. It is intended to move us beyond the largely rhetorical approach that now characterizes our efforts to achieve greater market access--into a straightforward mechanism for sorting through and dealing with these foreign actions.

The legislation is the product of extensive consultations last year in the Congress and discussions with the Administration, labor, and the private sector. Although based on the original language and concepts contained in S. 2094, introduced in February of last year, the legislation contains major provisions based on bills introduced in the 97th Congress by Senators Bentsen, Roth, Chafee, Bradley, Heinz, Symms, Hart and Inouye.

Although some of these bills employed the term and the concept of reciprocity more emphatically than others, they shared a common denominator--namely, that the United States must do more to expand its access opportunities in markets overseas. I believe the sponsors of the legislation under consideration share a conviction that the United States must seek nothing more, and nothing less, than the opportunity to compete on an equal footing in world markets. In its current form, the Reciprocal Trade and Investment Act was twice approved and reported out of the Finance Committee in the 97th Congress.

The result is a bill that should serve to further the objectives we all share--namely, the maintenance and expansion of market opportunities abroad for United States exports of goods and services, and for foreign investment of the United States. The legislation builds on the broad concept of reciprocity of market access that is fundamental to U.S. trade policy. It strengthens enforcement of the legal rights of the United States under existing trade agreements and it sets the stage for the expansion of those international rights through the negotiation of agreements in the service and investment areas. Finally, the bill addresses itself to the problems encountered by high technology industries as a result of government intervention that distorts international trade in such high growth sectors.

Overall, the bill is designed to liberalize international trade and to curb protectionist pressures in the U.S. by demonstrating that we will enforce our rights under international agreements. The idea is to close the credibility gap created when we consistently refuse to take protectionist action in spite of the widespread perception that we are the only country practicing what everyone else preaches --namely, free trade.

Specifically, the bill provides for:

(1) A systematic procedure whereby the Administration would identify and analyze key barriers to U.S. trade in products, services and investment.

The required annual report to Congress would include major foreign barriers and distortions to U.S. exports of products (including agricultural commodities), services and investment, including estimates of their impact on the U.S. economy and efforts to achieve their elimination.

It is my expectation, and that of others involved in the evolution of this bill, that the annual reports will be used by this and subsequent Administrations to identify the most onerous barriers to U.S. trade and investment and thereby set comprehensive market enhancement priorities for U.S. trade policy.

In this regard, we would expect the Administration to go beyond its current role as recipient of petitions under Section 301 of the Trade Act and to make use of the provisions for self-initiated 301 cases, as well as the bill's negotiating authority to broaden the scope of existing international agreements.

(2) Section 301 of the Trade Act of 1974 would be amended to broaden its scope and to clarify and enhance Presidential authority to retaliate against foreign unfair trade practices.

In this regard, unfair trade practices for which relief is available under U.S. law would be broadened to cover performance requirements and other trade-distorting barriers to investment, as well as violations of intellectual property rights.

Foreign barriers not removed through negotiation or enforcement of the GATT (General Agreement on Tariffs and Trade) could be offset by the United States through withdrawal of prior U.S. concessions, imposition of duties and other restrictions available under present law as clarified by this legislation. Where U.S. retaliatory options are not currently available to the President, he would be given new authority to propose legislation which would enjoy accelerated consideration by the Congress.

(3) Finally, the legislation provides for major negotiations to achieve international agreements that encourage fair and open trade in services, investment flows and high technology.

Taken as a whole, this legislation can make a timely contribution to our efforts to expand American exports abroad. It is my intention to see that the Reciprocal Trade and Investment Act moves through the Congressional legislative process with all due speed.

SENATOR JOHN HEINZ FEBRUARY 4, 1983

Hearing on S.144, Reciprocal Trade and Investment Act
Opening Statement

This hearing marks the second important step towards the enactment of reciprocity legislation, the first step being the reintroduction of the bill last week.

I want to commend Senator Danforth, the chairman of the Subcommittee, for moving so quickly on this matter. Its prompt enactment is more necessary and timely than ever in view of the failure of the GATT Ministerial to achieve our most important objectives.

The GATT Ministerial was intended to successfully address the alarming growth of interventionist and protectionist acts by foreign governments in international trade. Yet despite heroic efforts by Ambassador Brock, his staff and other agency personnel, it is hard to view the Ministerial as anything other than a disappointment. Not because immediate agreement was not reached. Not because we failed to achieve all our objectives. But rather because our trading partners showed so little interest in making the institution, GATT, work to deal with the problems of the 1980's.

Coping with the many changes taking place in the international marketplace demands a dynamic and resilient institution. And it is that challenge that the GATT has so conspicuously failed to meet.

More than a year ago I called for a new Bretton Woods Conference to tackle this problem and develop a new institution better equipped to deal with today's world. I was pleased to note both administration officials and private sector experts have recently issued this same call.

A new Bretton Woods, however, is probably far away. In the short term we have to try to solve these problems through existing channels -unilateral, bilateral, and multilateral. That urgent challenge will constitute the Finance Committee's trade agenda for this year.

S. 144, the reciprocity bill, will meet that challenge. Its purpose, simply put, is to give our administration more leverage in opening other nations' doors and in persuading them to accept GATT obligations.

During the multilateral trade negotiations in the late 1970's, we made substantial tariff concessions, largely in return for agreement by others to accept increased discipline over their behavior in the international marketplace. The MTN talks adopted a Subsidies Code, an Antidumping Code, a Standards Code, a Government Procurement Code, and a number of other measures designed to codify appropriate international economic behavior and to regularize the process of settling disputes between GATT members. Accession to these codes represented promises to behave and to operate generally according to free market principles.

Since then, however, we have witnessed a world increasingly beset by violations of those very standards. Subsidies and sales below cost are multiplying - the most recent and dramatic example being the over 150 complaints filed by the domestic steel industry last year, complaints which in terms of tonnage and value were largely affirmed by the Commerce Department and the International Trade Commission.

Barriers to U.S. exports are also multiplying. Only two weeks ago, for example, I learned that the Government of Taiwan has completely banned imports of soda ash since early last year, in violation of both general and specific trade agreements with us. We have had a similar soda ash problem with Japan.

Indeed, it has been the Japanese that have been the primary culprits in the race to close markets, using everything from outright quotas, such as for citrus and beef, to tariffs, such as for tobacco and chocolate, to more subtle inspection and testing procedures, which is exemplified by the bizarre story of the aluminum baseball bat industry, which is well known to most Senators. Currently, in the high technology sector the Japanese are pursuing the same kind of anticompetitive policy that has served them so well - and us so poorly - for so long. Essentially they are protecting their industries while we have a comparative advantage, and then opening the doors to competition only when they are ready to beat the competition. This is not the free market by anyone's definition.

It is these problems reciprocity legislation is designed to attack, not through arbitrary or mandatory retaliation, but through flexible, discretionary authority that is intended to be carefully used.

It is that latter point that is most important. We have to prove we are serious after years of losing our credibility in negotiations. That may necessitate acting tough once or twice. But it's already been amply demonstrated that talking tough is not enough.

I am aware that there are those who believe this bill is too weak and who have blocked its progress for that reason. I share the view that the bill could be strengthened, but I challenge its opponents to come forward with concrete suggestions for change. This bill represents the best chance we have to restore some meaning to the GATT, and it would be tragic for us to pass up the opportunity. I hope we will move rapidly to markup and that those who would be critics of the bill will instead work with us to develop a version we can all support.

STATEMENT OF

SENATOR CHARLES E. GRASSLEY

Public Hearing on S. 144, The Reciprocal Trade and Investment Act

February 4, 1983

The concept of trade reciprocity can be a tool to open new markets or it can be used negatively to erect barriers on a sector by sector or product by product basis endangering the world trading system as we know it. Senator Danforth's careful drafting of this bill has addressed these issues and resolved them in such a way as to assure the viability of our system of free trade.

One of the provisions to this bill deserves special praise. Under subsection (a) the USTR, through the interagency Trade Policy Committee, would be required to identify the acts, policies, and practices which constitute significant barriers to or distortions of U. S. exports of goods (including agricultural commodities) or services, and U. S. foreign direct investment. In addition to foreign barriers, these could include U. S. export disincentives.

The additions to Section 301 are particularly significant. The expansion of the grounds for bring a Section 301 action are very important to my constituents. Critical to this expansion is permitting a 301 action to be brought if an action of policy of a foreign nation is unreasonable, unjustifiable or discriminatory. The term "unreasonable" is defined as any act, policy, or practice which, while not necessarily in violation of or inconsistent with the international legal rights of the United States, is otherwise deemed to be unfair and inequitable. Many nations deny American agricultural products fair and equitable market access. This bill provides our agricultural interests with a tool for redressing these grievances and is an important step in expanding our agricultural export market.

The achievement of worldwide fair and equitable market access is a big goal. Reaching this goal will take years of patient and persistent negotiation and difficult compromise on the part of all nations. We must undertake this process to guarantee the future of our world trading system. The enactment of this bill is a good place to begin, and that's why I am pleased to be a cosponsor.

STATEMENT BY SENATOR DAVID L. BOREN
SUBCOMMITTEE ON INTERNATIONAL TRADE
FRIDAY, FEBRUARY 4, 1983

I commend Senator Danforth and Senator Bentsen for re-introducing the Reciprocal Trade and Investment Act. As a co-sponsor of last years "Reciprocity" bill, I have long supported the philosophy behind this legislation. Although not as assertive as I would like, this bill would provide a significant incentive to our trade partners to cease and desist in their perpetuation of trade barriers to U.S. exports.

Certainly the most transparent example of contrived and unfair trade barriers is Japan. The report issued last November through the office of our Trade Representative, Mr. Brock, outlined the elaborate and sometimes bizarre tools the Japanese use to obstruct the exports of other nations.

Beef producers in my home state of Oklahoma are extremely discouraged by the maze of import quotas, high tariffs, and other assorted practices the Japanese utilize to protect their highly inefficient farmers. This example only touches the surface of discriminatory practices, the Japanese have refined into an art form, that extend from barriers to U.S. citrus products to automobiles to baseball bats. At the same time, the Japanese expect us to expand our very reasonable auto import levels in the midst of a depression in our own auto industry.

The double standard must end. This reciprocity legislation should help us convince the Japanese, and other nations that unfairly impede the flow of trade, that the barriers they construct are counterproductive to the goal, which is to our mutual benefit, of expanding world trade.

Of course, our considerable trade deficit with Japan was not created solely by the trade barriers they impose. For a long period of time, the Japanese yen has been significantly undervalued. It has begun to pick up in recent months, but the price advantage this has given them has been enormous. There have been indications that the Japanese intend to push for lower interest rates to encourage growth in their own economy. This would enable them to combat unemployment but would also serve to lower the value of the yen allowing Japanese goods to become even cheaper abroad. We cannot allow the Japanese to maintain a low unemployment policy at our own expense. The provisions of this bill dealing with direct foreign investment should permit greater access to Japanese investments which would strengthen the value of the yen.

Prime Minister Nakasone has taken some token steps to eliminate import duties on 47 farm commodities and 28 industrial goods and to expand quotas for several agricultural items. This did not divert our attention away from the fact that high quality U.S. beef and U.S. citrus products were not included in this list of trade measures. I should remind our Japanese friends that the domestic content bill is still with us. There is a better chance of passage for this legislation in the 98th Congress, although it most certainly would be met with a presidential veto. The issue I want to raise, though, is where the votes would come from to defeat an override of this veto. A considerable number of votes would have to come from individuals representing beef and citrus producing states. I just want the members of the Japanese task force on trade barriers to think about this before they issue their recommendations on March 31.

The Japanese barriers to our beef and citrus exports are certainly significant but should not obscure our view of other practices which have a more dramatic impact upon the U.S. export position. Certain domestic industries are targeted by the Japanese for preferential treatment, designed to enhance their export competitiveness. Their government provides protection from imports research and development support, as well as making heavy purchases itself. This has allowed the Japanese to become extremely competitive in certain sectors such as electronics and data processing. In response, we should modify our antitrust laws to permit U.S. firms to pool research and development to meet these Japanese ventures head on.

The Japanese have generated an unnecessarily large amount of ill will towards themselves as a result of their trade practices. Prime Minister Nakasone did a commendable job in attempting to diffuse these suspicions, during his visit. Still, this relationship has been saturated with rhetoric and very little action has resulted. My patience has been exhausted. We need a substantive tool to ensure that America's rights, in the international trade arena, are no longer violated. The Reciprocal Trade and Investment Act would assert our determination to stem practices which exploit the openness of the U.S. market and serve to limit the flow of international trade.

The expansion of world trade brought about the worldwide growth in prosperity since World War II. Maintenance of an open trading system must be our ultimate goal in this process, but we do ourselves do favors by allowing various trade practices to go unanswered. At this time, when export growth could contribute so dramatically to our economic recovery, we must have a means of ensuring fairness and equity in our trade relationships. To accomplish this, we should report this legislation out as soon as possible.

Senator DANFORTH. I understand a number of the members of the committee have statements that they want included in the record, myself included. So without objection, the statements will be included in the record.

This hearing pertains to the Reciprocal Trade and Investment Act, S. 144, and the first witness is U.S. Trade Representative William E. Brock.

Senator HEINZ. Mr. Chairman, before the USTR begins, and I thank you for putting my statement in the record, I just want to apologize to Bill Brock. I have to go and chair a hearing in the Aging Committee at 10 so I'll be unable to be here. But I want to say to you, Mr. Chairman, I commend you for the hearing; I hope we can move rapidly to markup and to the floor and get this bill passed.

Senator DANFORTH. Thank you.

Mr. Ambassador?

STATEMENT OF THE HONORABLE WILLIAM E. BROCK, U.S. TRADE REPRESENTATIVE

Ambassador BROCK. It is a nice way to start a hearing. Thank you, Senator. I appreciate it. I agree.

I am here to express the administration's endorsement of the Reciprocal Trade and Investment Act of 1982. This bill was the subject of many hours of discussion between members of the Finance Committee and the administration last year. And I think it is fair to state that without the efforts of the chairman, Senators Heinz, Bentsen, Long, Roth, and Chafee, we would not have this important legislation today. I am happy, Mr. Chairman, that you have reintroduced it in the 98th Congress.

Fair and equitable market opportunities for U.S. investors and exporters of merchandise and services continue to be the goal of this administration. The intent of the legislative proposal before this subcommittee is not only consistent with, but is a reaffirmation of the fundamentals upon which our trade policy is based. We plan to pursue more vigorously than ever our efforts for a freer world trading system.

In short, it is our policy to enforce strictly existing trade agreements and domestic laws implementing those agreements, to strengthen our domestic trade laws to make them more useful and responsive to the needs of those they protect, and to seek expanded coverage of trade issues under the mutually accepted international framework of the GATT.

The failure of past efforts to tackle some of the most restrictive practices affecting world trade, particularly in the areas of services, investment and high technology goods, is the cause of increasing frustration for U.S. exporters, the Congress and the administration. Each of these areas was a major item on the agenda at the Ministerial in November 1982.

As I testified before the Senate Finance Committee last week, on January 25, we made some achievements in Geneva by bringing these problems to the attention of our trading partners, but there was not as much progress as the United States had originally hoped. Hence, the challenge before us of preserving and strengthening the open and free trading system is more critical today than ever.

Our frustrations with the GATT process in its limitations to deal with new forms of barriers and trade distortion is clearly our best reason for renewed efforts to strengthen the international codes of conduct and make them work.

In this perspective, S. 144 will be of great assistance. Not only does this legislation direct attention to specific trade problems and issues, but because it has been written with our international obligations and agreements in mind, the bill is also an endorsement of the GATT system.

Let me briefly outline the elements of S. 144 which provide the basis for our support.

In terms of the tools to increase market opportunities abroad on services in contrast to trade in goods, there are no meaningful international rules governing trade in services, an area where we are experiencing expanding trade opportunities but growing barriers.

At the Ministerial we were successful in obtaining an agreement that calls for national studies of the issues affecting services sectors and a decision in 1984 by the contracting parties as to whether further multilateral action is appropriate. In the meantime, clarification of the President's authority to negotiate international agreements for services demonstrates to our trading partners the U.S. resolve in seeking equitable treatment in this area. Congress specific mandate to negotiate a multilateral framework agreement for trade in services will provide the administration with the tools to make such a goal a reality.

Second, in terms of the tools we need to insure equity in direct foreign investment abroad, international investment now plays a more important role in the global economy than ever before. It is increasingly evident that trade policies have a substantial effect on investment flows, and that international investment policies strongly affect trade patterns. As the world's largest international investor, the United States cannot fail to recognize the importance of this link.

A strong U.S. international investment policy should seek to achieve for our investors the same kind of access, opportunities, and treatment abroad that it offers to foreign investors in the United States. We believe the provisions of this bill offers the United States some important tools for obtaining these objectives, and are pleased that the bill contains a clear mandate for negotiating both bilateral and multilateral agreements which will reduce or eliminate barriers to investment wherever possible. Such authority will strengthen, for example, our recently initiated bilateral investment treaty program.

In addition, where individual foreign governments fail to exercise discipline over the use of investment measures which distort related trade flows, S. 144 explicitly makes available section 301 authority to the executive branch, so that the United States can adequately deal with foreign investment policies which harm U.S. interests.

Finally, S. 144 provides for a thorough report from the USTR analyzing foreign direct investment barriers. By providing for annual revisions, S. 144 will assure that our investment policies continue to be founded on a strong analytical basis that takes into account changes in other countries' barriers and policies.

These provisions are even more important in the aftermath of the Ministerial where our efforts to start a multilateral dialog on trade-related investment issues were not successful.

On high technology, these goods and services are essential to our economic development, industrial competitiveness and national security. As international competition in high-technology industries becomes more intense, there is evidence that the competitive position of U.S. high-technology industries is eroding.

Although there was agreement from all parties at the Ministerial meeting to study trade in high technology, the objection of one country eliminated the possibility of including high technology in the Ministerial declaration.

To counter the international barriers and distortions to trade and investment in this area, the administration supports the specific negotiating objectives in S. 144. The legislation would also give the President authority to negotiate the reduction of tariffs on high-technology products in exchange for equivalent concessions.

Reciprocity as a principle embodied in the GATT and in our trade laws, and increased market access is the goal of this administration. I would like to reiterate my strong opposition to any type of legislation based upon sector-by-sector, product-by-product, or country-by-country reciprocity. As we stated last year, such an independent standard for unilateral action under section 301 could mean that instead of judging the fairness of foreign market access according to internationally agreed standards, we would be required to judge it by the access accorded to foreigners in the U.S. market.

The preferable method for obtaining substantially equivalent market access should always be to seek liberalization of foreign markets rather than to raise equivalently restrictive barriers of our own. Our goal is to move our trading partners forward through negotiations to a level of market access more similar to our own. S. 144 will be a valuable tool to use in pursuit of that goal.

In conclusion, the challenge before all of us is to develop and implement a U.S. policy aimed at increasing reciprocal market access with our trading partners without tearing down the present international trading system, reversing its benefits to date, or starting a spiral of protectionist actions.

We believe S. 144 is a reaffirmation of U.S. trade and investment policy, and the bill has the administration's wholehearted endorsement.

I look forward to working with the subcommittee on this issue and would urge a quick markup of this important bill.

[The prepared written testimony of Ambassador Brock follows:]

Statement of Ambassador William E. Brock, III
United States Trade Representative

Before the Senate Finance Committee
Subcommittee on Trade

February 4, 1983

I am pleased to appear before you to express the Administration's endorsement of S. 144, the Reciprocal Trade and Investment Act of 1983.

This bill was the subject of many hours of discussion between members of the Finance Committee and the Administration last year and I am happy Senator Danforth has reintroduced it in the 98th Congress.

Fair and equitable market opportunities for U.S. investors and exporters of merchandise and services continue to be a goal of this Administration. The intent of the legislative proposal before this Subcommittee is not only consistent with, but is a reaffirmation of the fundamentals upon which our trade policy is based. We plan to pursue more vigorously than ever our efforts for a freer world trading system.

In short, it is our policy to enforce strictly existing trade agreements and domestic laws implementing those agreements, to strengthen our domestic trade laws to make them more useful and responsive to the needs of those they protect, and to seek expanded coverage of trade issues under the mutually accepted international framework of the General Agreement on Tariffs and Trade (the GATT).

History has shown that no nation can long sustain public support for an open trading policy unless its people sense that there is fairness and equity in the practices of other countries as well as their own, and that they see tangible benefits from the application of that policy.

The failure of past efforts to tackle some of the most restrictive practices affecting world trade, particularly in the areas of services, investment and high technology goods is the cause of increasing frustration for U.S. exporters, the Congress and the Administration. This frustration undermines the consensus which supports the open trading system.

Each of these areas: services, high technology goods and investment, was a major item on the agenda at the GATT Ministerial in November of 1982.

As I testified before the Senate Finance Committee last week on January 25, we made some achievements in Geneva by bringing these problems to the attention of our trading partners, but there was not as much progress as the United States had originally hoped.

Hence, the challenge before us of preserving and strengthening the open and free trading system is more critical today than ever. Our frustrations with the GATT process in its limitations to deal with new forms of barriers and trade distortion is clearly our best reason for renewed efforts to strengthen the international codes of conduct and make them work.

In this perspective, S. 144 will be of great assistance. Not only does this legislation direct attention to specific trade problems and issues, but because it has been written with our international obligations and agreements in mind, the bill is also an endorsement of our GATT system. At the same time, let me reiterate the fact that we will not sit on our hands if other governments act in such a way as to injure U.S. workers and industries. We will continue to defend and advance the legitimate economic interests of the United States in the international trading system.

Let me briefly outline the elements of S. 144, the Reciprocal Trade and Investment Act of 1982, which provide the basis for the Administration's support.

Tools to Increase Market Opportunities Abroad:

Services:

In contrast to trade in goods, there are no meaningful international rules governing trade in services.

This is an area where we are experiencing expanding trade opportunities but growing barriers. Exports of services have become a major source of export earnings and has helped offset the increasing deficit in merchandise trade. Seven out of ten jobs are in the services area and in 1981, the surplus in trade in services totaled $41 billion.

At the GATT Ministerial meeting we were successful in obtaining an agreement that calls for national studies of the issues affecting service sectors and a decision in 1984 by the Contracting Parties as to whether further multilateral action is appropriate.

In the meantime, we need to clarify the President's authority to negotiate international agreements for services.

Clarification of the inclusion of services under the authority granted by Section 301 of the Trade Act demonstrates to our trading partners the United States' resolve in seeking equitable treatment in this area. Congress' specific mandate to negotiate a multilateral framework agreement for trade in services will provide the Administration with the tools to make such a goal a reality.

In addition, the annual report on significant trade barriers required of my office would enable the private sector and Congress to work with the Administration to establish on a continuing basis priorities for U.S. trade policies.

Tools to Ensure Equity in Direct Foreign Investment Abroad:

International investment now plays a more important role in the global economy than ever before. It is increasingly evident that trade policies have a substantial effect on investment flows, and that international investment policies strongly affect trade patterns. As the world's largest international investor, we in the U.S. cannot fail to recognize the importance of this link.

A strong U.S. international investment policy should aim toward reducing, or eliminating where possible, foreign barriers to, and restrictions on, U.S. investors abroad. Likewise, the U.S. should treat foreign direct investment in the U.S. equitably and in a non-discriminatry fashion. In this regard, the U.S. has the most favorable investment environment in the world for foreign investors. Stated in a different way, the U.S. seeks to achieve for U.S. investors the same kind of access, opportunities, and treatment abroad that it offers to foreign investors in the United States.

We believe that the provisions of S. 144 offer the U.S. some important tools for achieving the international investment policy objectives outlined above. Thus, the three main provisions of this bill relating to direct investment matters deserve and have our strong support. First, we are pleased that S. 144 contains a clear mandate for negotiating both bilateral and multilateral agreements which will reduce or eliminate barriers to investment wherever possible. Such authority will strengthen, for example, our recently initiated Bilateral Investment Treaty Program.

Second, where individual foreign governments fail to exercise discipline over the use of performance requirements and other investment measures which distort related trade flows, S. 144 explicitly makes available Section 301 authority to the Executive Branch, so that the United States can adequately deal with foreign investment policies which harm U.S. interests.

Finally, S. 144 provides for a thorough report from USTR analyzing foreign direct investment barriers. By providing for annual revisions, S. 144 will assure that our investment policies continue to be founded on a strong analytical basis that takes into account changes in other countries' barriers and policies.

In sum, we believe that the provisions of S. 144 relating to international direct investment issues offer important tools for carrying out a sound international investment policy. These provisions are even more important in the aftermath of the GATT Ministerial, where our efforts to start a multilateral dialogue on trade-related investment issues were not successful.

High Technology

High Technology goods and services are essential to our economic development, industrial competitiveness, and national security. As international competition in high-technology industries becomes more intense, there is evidence that the competitive position of U.S. high-technology industries is eroding.

Although there was agreement from all parties at the GATT Ministerial meeting to study trade in high technology, the objection of one country eliminated the possibility of including high technology in the Ministerial declaration.

To counter the international barriers and distortions to trade and investment in this area, the Administration supports the specific negotiating objectives in S. 144. The legislation would also give the President authority to negotiate the reduction of tariffs on high technology products in exchange for equivalent concessions.

The benefits of tariff reductions to spur export markets could likely exist for sectors other than high technology. The Administration proposed an extension of negotiating tariff authority last year, and in the State of the Union Address last week, the President pledged to seek, "new negotiating authority to remove barriers and get more of our products into foreign markets."

Reciprocity as a principle embodied in the GATT and in our trade laws, and increased market access is the goal of this Administration. I would like to reiterate my strong opposition to any type of legislation based upon sector-by-sector, product-by-product or country-by-country reciprocity. As we stated last year, such an independent standard for unilteral action under Section 301 could mean that instead of judging the fairness of foreign market access according to internationally agreed standards, we would be required to judge it by the access accorded to foreigners in the U.S. market.

The primary and preferable method for obtaining substantially equivalent market access should always be to seek liberalization of foreign markets rather than to raise equivalently restrictive barriers of our own. Our goal is to move our trading partners forward through negotiations to a level of market access more similar to our own. S. 144 will be a valuable tool to use in pursuit of that goal.

Conclusion:

As we explore the issues raised by this legislation, the United States will continue its leadership role in promoting freer and fairer trade. As the initiator of every major negotiation, this is not an unusual or unexpected responsibility.

The challenge before all of us is to develop and implement a U.S. policy aimed at increasing reciprocal market access with our trading partners without tearing down the present international trading system, reversing its benefits to date, or starting a spiral of protectionist actions.

We believe S. 144 is a reaffirmation of U.S. trade and investment policy, and the bill has the Administration's wholehearted endorsement.

I look forward to working with the subcommittee on this issue and urge a quick markup of this important bill.

Senator DANFORTH. Mr. Ambassador, thank you very much.

Senator Bentsen?

Senator BENTSEN. Mr. Chairman, I am very pleased you have moved so quickly on this piece of legislation. Of course, it has been through the wringer before in this committee, and I hope we can successfully pass it this year.

I would like to comment for just a moment to the Ambassador. This piece of legislation has a national trades estimate in it to try to bring about some correlation of interagency work in identifying those products from those countries where barriers have really been placed, and what in turn we should do in trying to counteract those. Do you think that process will be of help? Do we have anything at the present time that really correlates that or brings it together?

Ambassador BROCK. We do it as a matter of routine in analyzing our negotiating strategy on a country basis. But I think the value of this legislation is that it deals with barriers in a global sense. Because it is impossible to solve all the problems at once, we can identify those areas which deserve priority treatment. There is a logic to this approach and we support it.

Senator BENTSEN. I am also concerned about the utilization of the safeguard provisions escape clause. Certainly we have to have that available to us to help industries that are seriously threatened in this country, but it seems to me we ought to exact some kind of action on their part where it is not just protectionism and not just a changing of resources and going into other lines of business, but some way to try to put some pressure on them that such a protection will not last or will not have the intensity without their paying a price, in the way of modernization, being more competitive, trying to bring prices down. Otherwise you end up, it seems to me, by the consumer paying for that type action.

Ambassador BROCK. I absolutely agree. I think that is going to be the essence of any effective trade policy over a period of time; otherwise we will tend to freeze ourselves, as others have frozen themselves, into a stagnant pattern. That has happened in some countries, and I don't think this country wants to follow that path.

Senator **Bentsen**. To move just a little beyond but not really far from what we are talking about, I'm quite pleased to see that the administration has taken the action it has on agricultural products and the export of those products insofar as some of the deals that have very recently been made.

We are in a situation where our farmers are obviously not just competing against the farmer of Europe, they are competing against their countries. The numbers I have had show that the European Common Market plus the specific countries, when you put them all together over there, you have got about $44 billion worth of subsidy that has been at work, and we have lost a very substantial part of our market.

Now, the action that has recently been taken, and I notice the response on the part of the European Common Market, as I understand it, of wheat flour being taken off the agenda, as I recall that case has been underway for about 7 years without much action.

But what are you seeing in the way of getting their attention on the problem by the action that we've taken?

Ambassador **Brock**. Well, I think we've taken a combination of actions. I'm not sure that I would cite any single step, but I do think that the atmosphere for improving this situation is better than I have seen it since I have been in this responsibility. According to those who were involved before, it is better than the last several years.

We did have five cabinet members at the high level meeting in Brussels in December and excellent and constructive and honest conversations were held on the issue. That was followed by a good session at the working level in the technical talks in January. We have the second meeting coming up on the 9th of February in Brussels, and I believe there is a possibility of moving this issue for the first time in some time. I am very comfortable with the cooperative and constructive attitude of our trading partners.

We are going in without any theological dogma; we are not trying to argue who is right or wrong; we are simply saying there is a problem between us, and we've got to resolve it. I think they are approaching it from the same attitude.

Senator **Bentsen**. Mr. Ambassador, one thing more. We have lost an awful lot of jobs in this country in the tubular steel industry. And I know you are on your way to Japan. I hope that you will keep that in mind in negotiations there.

It is not a question of our not being competitive. We have some of the most modern manufacturing facilities in the world, some of the most effective and efficient; and yet, a lot of it comes, of course, by recession and what's happened in the energy industry, but a substantial part of it also comes from the imports that have resulted in a great loss of jobs in this country.

Ambassador **Brock**. I am very well aware of that, Senator. I will have it very much in mind in my talks next week. Thank you.

Senator **Bentsen**. Thank you, Mr. Chairman.

Senator **Danforth**. Senator Long?

Senator **Long**. No questions at this time.

Senator DANFORTH. Senator Dole?

Senator DOLE. Ambassador Brock, you are headed for Japan, right?

Ambassador BROCK. Yes, sir.

Senator DOLE. What are you going to do over there? Do you have any agenda that we can take hope from?

Ambassador BROCK. I think so. We had remarkably frank and constructive conversations when the Prime Minister was here, about 2 weeks ago, and this is part of the continuum.

The Secretary of State has just been in Japan; I will be there next week. We began to make some real progress in opening up the Japanese market with the commitments in regard to the across-the-board problem of certification, that the Prime Minister and his cabinet made before coming here.

We do have continuing areas of concern in steel, automobiles, other similar petitions and cases that have been filed before my office. All of those items will be on the agenda, but I am convinced that the Prime Minister and his cabinet want to move forward and are very sensitive to the degree of concern that exists in this country.

We shall see, but it looks to me like we have a very good opportunity to make some progress.

Senator DOLE. I have great confidence in what you will attempt to do. I am certain they understand, based on the last time when you went to Japan when you had a committee resolution endorsing what your objectives were, that we could do that every time you went to Japan. We didn't get a resolution done this time, but certainly we support efforts you will be making there.

Ambassador BROCK. I think the Japanese are aware that this is not just the attitude of the administration, the Congress is just as concerned, and that we are acting as one body in our approach on this problem. I think the support that I have received from you has been of enormous value, and we are beginning to see some changes.

Senator DOLE. In another area, Senator Bentsen touched on agriculture. I was speaking to some corngrowers last night in Illinois. I also met with Ambassador Dobrynin yesterday, and as I understand from the Soviet Ambassador there have been no efforts by this country to enter into any long-term grain agreement. Even though we've lifted the embargo, all we've had are informal discussions.

It's pretty difficult, when we are asking for billions more for agriculture in a lot of different programs, to understand why the administration has not been more aggressive in trying to get a long-term grains agreement. I know you negotiated the last extension. Would you still have the primary role, if any, if we had an extension of that agreement?

Ambassador BROCK. Yes, sir. Under the law, we have the responsibility for such negotiations. But the problem has not been one of interagency disagreement.

If you recall, in December 1981 the President suspended further talks on an LTA because of the deprivation of human rights in Poland and the absence of any constructive Russian response to the problem. We simply have seen no logic in proceeding with long-term talks as long as that situation remains unresolved.

The President established certain basic fundamental criteria by which we would evaluate whether the Polish Government was responding to any norm of human behavior. Those criteria have not yet been met, and as a consequence, the talks remain suspended.

Senator **Dole**. But I think, on the other hand, it is difficult for the American farmer to understand that the President takes credit for lifting the embargo, but we're not trying to sell anything. So in fact you still have an embargo. It's been lifted technically, but for all practical purposes it might as well be in place.

Ambassador **Brock**. With all respect, Senator, I honestly can't agree. We have been selling, we continue to sell, and we continue to make the effort to sell.

We are operating under a long-term agreement now. It's still in place, and we have, in fact, sold a good deal of grain.

I grant you that the embargo that was imposed about 4 years ago substantially reduced the penetration of the Soviet market from about 70 percent to about 30 percent, and that has had a negative impact here.

But we don't have to have a long-term agreement to sell grain. There is no prohibition against selling grain if there is no LTA; it simply will be a different method by which we do business.

Senator **Dole**. They have purchased a minimum 3 million tons of wheat and 3 million tons of corn. They don't have to have a long-term agreement, but they can make long-term agreements with other producing countries, and that's the only point I make.

We are in a period now where farm prices are so depressed that there is going to be a massive Federal payment to the farmer unless market prices come up—not that one country's purchases alone would do that, but it's an area that I think we ought to explore as well.

I think it's time we took a look at the Jackson-Vanik amendment to see whether or not that has really had an impact. The objective, as I view it, has not been reached. Even though I supported that amendment, it may be time to take a look and see whether the immigration policies have really improved because of that amendment.

But I guess the frustration is, we've got a lot of requests to spend more money in agriculture—we are looking at blended credit programs and a number of other things the President is supporting—but you know the only real hope we have is in the marketplace, and if we can't deal with those who might want to buy it makes it more difficult.

Ambassador **Brock**. Yes, I know.

Senator **Long**. Could I just ask a question, Mr. Chairman?

Senator **Danforth**. Sure.

Senator **Long**. I am concerned, more than any single fact in dealing with this legislation, about the use of the word "reciprocal." I am very much a reciprocity guy, Ambassador Brock, and I'm sure you are familiar with that dating back to the days when you served here on this committee.

I sat here when Bob Kerr was a member of the committee. We used to hear him say that he was against any combine he wasn't in on, and he did very well doing business that way.

[Laughter.]

Senator LONG. If you wanted something out of this committee and if you wanted Senator Kerr to vote it, you either had to go along with something that was important to Oklahoma or accommodate his views.

In this world, about half the countries have a great deal of state trading, government-to-government trading, a lot of bartered trading, a lot of restrictive practices—I am not just talking about restrictive practices in the law, I'm just talking about such things as loyalty toward the national product, which in some respects is still a custom here.

We still have, to some degree, a loyalty toward American products. Some people still feel a loyalty toward the American automobile, for example. They think we ought to buy from our own people.

This is many times encouraged by national policy, even if it's not in the law.

Also, there are many subsidies in the world, many of which we are using ourselves, and there are embargoes and quotas, and bilateral agreements, and bilateral trading arrangements—both those on top of the table and those that are not on top of the table—when you consider all that, if we are just trying to trade on a pure, free trade proposition, then that just leaves us in the position of that old Kentucky colonel who went out to duel with somebody. When they stepped off their 20 paces and turned around, that scamp was standing behind a tree. Well, it just turned out that this old colonel had had enough experience in dueling so that he was standing behind a tree himself when he turned around.

[Laughter.]

Senator LONG. So it seems to me that we have had enough experience with all of this, that we by now ought to learn when somebody is getting the best of us by the kind of practices I've mentioned, and we are going to have to find some way to react to that. As long as you just let other countries make a profit at it by victimizing our country and our workers and our industries by chiseling on the game, this country winds up the loser.

I hope that you don't buy what apparently all these macroeconomists seem to buy, which is the idea that, "Look, it's all all right; that's all fine, because in the long run our dollar will decline in value, and that means that our wages on the international market will be reduced and that way we'll come back into the market." You know, that's the way I understand all this—in the long run it will work all right, because "just let the present trend continue, running these big deficits, and after a while the dollar won't be worth anything; so then we can regain our markets." You know, I think that's basically the idea, or something similar to that.

I believe we have had some people who don't agree with that. We had an economist working for this committee some time back, Bob Best, who helped to write the trade law that's on the books right now.

But most of these macroeconomists tend to agree with this idea, "It's all going to be fine," it will all work out in the long run to something good for us. The trouble is, it just doesn't work out.

For example, if you are following that theory right now, our dollar should be way down. And instead, it's up, because the Federal Reserve with the support of the administration is moving to hold interest rates at a high level to attract capital or to fight inflation. So it just doesn't work out as theory predicts.

And there is no doubt in my mind that some would say that if we pursue all this foolishness, when the end of the rainbow comes and we're supposed to have all of these jobs back that we've lost in the meantime, the rules will change on us again. Either other countries will go in for subsidies, or by that time they will find another way of doing business, or the whole world will go socialist, or there will be a war, or God knows what; but the point at which we are supposed to benefit from all that just never occurs.

Now, I hope that you recognize and that you are proceeding on the basis that if people find ways, no matter how they do it, to sell in our market at a big profit and are doing very well indeed at it and they are not buying from us, that we will find ways to overcome that.

Ambassador BROCK. I can't argue with that at all, Senator. I happen to believe the purpose of any administration is to defend the vital interests of this country, first and foremost. That simply means that there are times when we have got to act.

I think we have done that in a couple of very specific cases recently, and I think our actions demonstrate that the administration's attitude is to respond to the situation as best we can.

One of the reasons I support this bill is that it strengthens our ability to act in some of these cases. We have had no rules internationally on services or investment at all. This bill clearly gives us the authority to act, unilaterally if necessary, when we have trade or nontrade barriers that affect American interests.

Senator LONG. Now, the Japanese Government sent people over here during the last year to say that if we insisted on reciprocity, in the sense that most of us think reciprocity should apply—moving toward a balance with Japan rather than the big surplus in their account trading with us—that that would violate the GATT [the General Agreement on Tariff and Trade].

My reaction to all of that is, they are violating that agreement in so many ways—some of them out in the open; most of them not out in the open—and they have found so many ways to maneuver it around and connive to violate it, that it's ridiculous for us to talk about whether we are violating the GATT or not; but we ought to tell them with regard to automobiles and steel, for example, that we can't do business that way. Anybody who does business that way would be a fool. Otherwise, we are just encouraging people to go along with a farce, which would lead people to conclude that this Government is not really looking after the interests of our citizens over here.

In other words, if we don't take effective action—and I believe that you are taking effective action; I know you are doing your best—if we don't take effective action to protect the economic interests of this Nation, its workers, and its industries, its investors in American jobs, if we don't do effective things like that, well, in the long run the people of this Nation are going to be outraged about that. If we just don't want to do anything for them then we will tell them, "Well, look, go over there to GATT and talk to the General Agreement over there," knowing that nothing is going to happen. After 6 or 8 years fooling around, traveling back and forth, talking to all those people over there, they will be back to where they started out, and if they are going to get any action they are going to have to raise enough hell with the Government that the Government will go after the problem unilaterally.

We just ought to make our citizens feel that they can come to you and come to us up here and get some action if they are being treated unfairly.

Ambassador **Brock**. I agree, but I want to make a very clear distinction between simply taking a purely protectionist action and taking an action, defined by U.S. law and international agreement, to give us a fair shake or an equitable opportunity in this process.

There are good laws on the books of this country. S. 144 will improve those laws, by saying that another country, or government, cannot act, whether or not the practice is hidden, to unfairly displace American workers. We have to have the tools to deal with those practices on their face when they occur, so that we don't get into that situation.

There is a difference between doing that and going into a pure protectionist stance, which hurts the United States more than it hurts other countries. If we can make the point that the steps we take are entirely within our rights as a sovereign country to insure that our workers are not being disadvantaged by predatory or unfair practices on the part of somebody else, that's a positive method of action. That way we are working to get their markets open, we are not shutting ours down simply for political reasons.

Senator **Long**. Well now, Mr. Brock, we've got some things that are in the law already and in these agreements already that require some doing on behalf of whoever holds your job and whoever represents the United States——

Ambassador **Brock**. That's right.

Senator **Long** [continuing]. If we're going to ever come out even. Let me just mention one of them.

There is a proposition that some idiot agreed to many years ago which is that Europe can regard value added taxes as being a tax to be refunded at the border and imposed on us when we cross the border headed the other way, but that we can't do the same thing with our social security tax. That is expressly provided in the GATT. We can't include our social security tax that has the same burden on our people, relatively. In general terms, it has the same burden on our consumers that that value added tax has on theirs. We can't count that. And right there is enough subsidy, just on the average commodity, to subsidize exports to our market and pay the U.S. tariff. Yet, when our products are headed the other way, we not only have to pay our tax but pay theirs, by the time we cross their boundary. So just right off, in one major area, we are just at a great disadvantage.

When we are trying to export to Japan or some third-party country, we will confront that all over again. That tax burden is refunded to them, and then our product carries the full tax burden on that product. So right off we are at a big disadvantage.

Now, it takes some real resourceful administering to overcome that, just to start with, you know. If you are that far behind at the starting point, you've really got to do some doing even to catch up.

So I just feel that more and more we've got to be doing business in such a way that compensates us for existing unfair agreements and make some points to offset that. And I think in doing it you and I are going to have to realize that some of these multinational companies don't necessarily have the highest allegiance toward what's good for this country.

I understand this. They've got the same dedicated desire to benefit their shareholders that any corporate director ought to have; but it's awfully easy for somebody to take the attitude that what's good for General so-and-so is good for America.

You and I know how it tends to color one's feelings, his attitude, when his company is going to do very well indeed by something that might not be good for the American people as a whole.

Ambassador **Brock**. I have a different attitude. I think what's good for America is good for General so-and-so. I think that's the way we ought to put it.

Senator **Long**. Thank you, sir.

Senator **Danforth**. Senator Bentsen?

Senator **Bentsen**. Yes. Thank you very much, Mr. Chairman.

The one statement you made troubles me, Mr. Ambassador, and I have to strongly disagree; that's this question of whether or not we need long-term contracts for the sale of products—grains in particular.

Technically, you are certainly correct; we can sell them without long-term contracts. But, in a very substantive way, it is so much to the advantage of our economy to have those long-term contracts.

I also understand that that contract with Russia expires this year.

Ambassador **Brock**. That's right.

Senator **Bentsen**. So we ought to be looking at a long-term contract. Anytime you don't have a long-term contract and the other side, the other fellow that furnishes the product, does, and particularly on things like grain, it just means that the capital commitment can be made in Argentina to put the plow to the grasslands with the understanding that they've got a long-term contract, so they can recoup that capital and make their profit.

It means, for the prairies of Canada, that they can put the plow there, and increase that production, invest that capital, and get it back.

We have had 70 percent of the market in Russia; we've got approximately 30 percent of that market now. If we want to get the commodity futures up and the price of that grain up, then it would be very much to the advantage of American agriculture, and, in turn to our country, to have the long-term contracts as an outlet for that grain. And, I would strongly urge that we see what we can do about achieving those kinds of long-term contracts.

Ambassador **Brock**. Senator, we are not in disagreement. I was speaking of the technical aspect of their right to buy without an agreement, not of the balance of benefits that might occur.

There is a problem that you have identified in not having an agreement, in that the United States then becomes the residual supplier, and others get the benefit of the long-term planning process. As a result, the capital investment can be calculated and cranked into the price.

I was simply pointing out that, without an LTA, which will expire unless extended this September, they have the right of access in the U.S. market, as does any other consumer.

Senator **Bentsen**. Thank you, Mr. Chairman.

Senator **Danforth**. Mr. Ambassador, this bill is substantially the same as a bill that was introduced in the last Congress, on which hearings were held, and which was marked up in this committee. In fact, came very close to being passed by the Senate in the waning days of the 97th Congress. It has, therefore, been thoroughly considered by this committee.

My hope for the 98th Congress has been to get the bill introduced with a significant number of cosponsors early in the Congress. That was done. Senator Bentsen and I introduced the bill on the 26th, which was the first working day of the new Congress, with 34 cosponsors—32 plus us—to have an early hearing and to have, hopefully, a strong, unequivocal, statement of endorsement by our U.S. trade representative.

It is my view that you have provided that strong, unequivocal, endorsement today. For that I am most appreciative and will abide by the old adage that "once a lawyer wins his argument, stop arguing the point." So I will not ask you any questions, and I very much appreciate your being here.

Ambassador **Brock**. You have the endorsement; let's roll. Thank you, Senator.

Senator **Danforth**. Thank you very much. Good luck in Japan.

Ambassador **Brock**. Thank you.

RESPONSE TO QUESTIONS FROM SENATOR MITCHELL

I would like to ask you about two features of the antidumping and countervailing duty laws that have been identified as especially costly. The first is judicial review. The 1979 Trade Act substantially increased opportunities for court review of preliminary agency decisions. What do you see as the primary advantages and disadvantages to domestic petitioners of this change? Also, agency decisions are appealed to the Court of International Trade. In your opinion, what are the advantages and disadvantages of having appeals go to a trial court rather than an appellate court?

Background:

Provisions for judicial review were included in the Trade Agreements Act of 1979 to facilitate access to a single court and quicker resolution of dumping and countervailing duty disputes. As anticipated, the number of investigations in litigation before the Court of International Trade has increased since the Trade Agreements Act came into effect.

Prior to the Trade Agreements Act, in 1978 and 1979, less than a dozen antidumping/countervailing investigations were the subject of litigation. Of the 126 dumping and 200 countervailing duty investigations conducted by the Commission since January, 1980, 31 Commission investigations have been the subject of litigation before the Court of International Trade. Fewer Commission investigations have resulted in litigation than those from the ITA; currently 15 percent of the dumping and duty determinations of the ITA are involved in litigation.

Although the number of cases in litigation have increased, there has been no disposition of these appeals on their merits. Since the Trade Agreements Act, the only Court of International Trade cases which have been finally resolved are those cases concerning access to or treatment of confidential information and other procedural questions. All the other cases have been withdrawn or dismissed for lack of prosecution, or are still pending for resolution. Some cases have been pending before the Court since 1980.

What are the primary advantages and disadvantages to domestic petitioners from Court review of preliminary agency decisions?

Section 1001 of the Trade Agreements Act (19 U.S.C. section 1516a(a)(1) provides for judicial review of negative preliminary determinations. No judicial review is allowed for affirmative preliminary determinations. Because a negative preliminary determination by the Commission terminates an investigation, judicial appeal is appropriate at that point, as there is no subsequent agency activity from which an appeal may be taken. Thus, the primary advantage to a petitioner represented by review of negative preliminary determinations is that an appeal lies at the soonest possible time after a final agency resolution of the investigation. The statute has provided for a streamlined review process that presents no real disadvantage to the petitioner.

What are the advantages and disadvantages of having appeals go to a trial court rather than an appellate court?

Appeals from Title VII investigations are taken to the United States Court of International Trade. While the Court of International Trade serves as a trial court for customs matters and other types of cases, it serves a purely appellate role when reviewing Title VII cases. Consequently, with respect to Commission litigation, the Court of International Trade does not function as a trial court.

After a Title VII investigation has been concluded in an appeal before the Court of International Trade, a second appeal may be taken from that disposition to the United States Court of Appeals for the Federal Circuit. A final level of appeal is available to the U.S. Supreme Court from the Circuit Court of Appeals; however, it is extremely unlikely that the Supreme Court would grant review of a Title VII appeal.

The main advantage to a party from the two-tiered appeals process is that it provides a second opportunity for review of a Commission's determination. This advantage, however, is tempered by the fact that a second appellate review adds significant cost and substantial time to a final resolution of the issues arising from an investigation. The fact that no Title VII appeals have reached final disposition on their merits suggests that the cost and time for judicial review may be disadvantageous in the review process.

A second aspect of import relief from unfair practices that is especially costly is the preliminary injury determination. Although the ITC does not control the private costs incurred at this stage, both the statutes and the ITC's administration of the statutes create incentives that tend to increase the private resources devoted to this stage of the process. Do you think that the standard for preliminary injury determination, or the ITC's interpretation of the standard, could be changed to reduce the costs to domestic petitioners? Are there other changes that could reduce the information required of the domestic industry, either in the petition or in the investigation conducted by the ITC?

Yes, the standard for preliminary injury determinations and the procedures followed by the ITC in conducting preliminary investigations could be changed to reduce the cost of these investigations to domestic petitioners. On balance, however, such a change would lead to a sharp increase in the total costs of many investigations. The reason for this is that by performing a thorough preliminary investigation the Commission has been able to make negative determinations in 45 percent of its countervailing duty investigations and in 29 percent of its dumping investigations, within 45 days after the petitions were filed. These negative determinations have resulted in the termination of these investigations and have saved both the petitioning firms, the respondents, and the U.S. Government millions of dollars because it has not been necessary to continue these weak cases for an additional six to 12 months at Commerce and the ITC. In addition, trade in the articles subject to these investigations is not adversely affected for an extended period of time because of any uncertainty about the status of affected imports.

There are changes that could be made in the amount of information required of the domestic industry in the course of a preliminary investigation and in the petition for the investigation. However, we believe any such reduction would be self-defeating because the Commission would find it difficult to make a negative determination in preliminary investigations unless it had a solid record on which to base its determination. Furthermore, a negative preliminary determination would be subject to court reversal if it were based on an inadequate record.

I would like to ask a final question regarding the length of time involved in escape clause cases. President Reagan has included a fast-track import relief process for perishable products in his Caribbean Basin Initiative. Do you think such a system could be established for escape clause cases in general and extended to other product areas?

We do not believe it feasible to establish a fast-track import relief process for all escape clause cases that would be similar to the one currently followed in investigations under Section 22 of the Agricultural Adjustment Act or the one proposed in the Caribbean Basin Economic Recovery Act. In these investigations the Secretary of Agriculture, whose department gathers extensive data on agricultural crops and agricultural markets, is in a position to make an informed judgment on the need for emergency import relief for producers or growers of the products in question. The President can then implement this emergency relief while the Commission proceeds with its investigation. If the Commission makes a negative determination the emergency relief is terminated.

It is not apparent that producers of manufactured goods are as vulnerable to surges in imports as are growers of seasonal or perishable agricultural products. Thus emergency import relief, which could have a disruptive impact on trade in nonperishable items, should be used in only extreme cases. In addition, there are only a limited number of U.S. industries for which data comparable to that maintained by the Department of Agriculture on farm products are available. Thus, the ability to make an informed judgment as to the need for emergency relief would be much more difficult when examining these nonagriculture industries.

Senator **Danforth**. Next we have a panel: Merlin Nelson, Michael Samuels, and William Walker.

Mr. Nelson, would you like to start?

Mr. **Nelson**. Thank you.

STATEMENT OF MR. MERLIN E. NELSON, VICE CHAIRMAN, AMF, ON BEHALF OF THE EMERGENCY COMMITTEE FOR AMERICAN TRADE

Mr. **Nelson**. Mr. Chairman, I am pleased to be with you today on behalf of the Emergency Committee for American Trade [ECAT].

I am vice chairman of AMF, Inc. Most of the 22 years I have worked for AMF have been in the international sector, including 9 years residence in London, England, while I was the vice president in charge of AMF's international operations.

AMF is a U.S. multinational corporation with 1981 sales of $1.3 billion. Our business is concentrated in industrial technology and leisure products.

Over the past year, the members of ECAT have carefully examined the reciprocity issue. We believe that much of the current debate about reciprocity is fueled by the United States being lax in seeking enforcement available to us of our own trading rights under both the GATT and domestic statutes.

ECAT's examination has led us to the conclusion that there already exists a wide variety of international trade statutes on the books that provide necessary authorities to deal with many current trade problems and to secure more open market access for U.S. goods abroad.

The gaps that we see conspicuously absent in our domestic laws relate to international investment and international trade in services—gaps that are addressed in S. 144.

We in ECAT were concerned with several legislative proposals for a new reciprocity policy that had been introduced in the last Congress. Some of these proposals would have mandated that the United States retaliate automatically against foreign practices restrictive of U.S. trade which did not conform to U.S. policies and regulations. Such an approach would jeopardize the whole GATT system so painstakingly put in place over a number of decades. There would be no winners in such a trading environment. Such trade restrictions would beget others.

We are gratified that the above approach has been rejected and replaced in S. 144, with a renewed commitment to the traditional multilateral concept of reciprocity.

At the same time, ECAT members are concerned that protectionist amendments may be offered to S. 144, should it be debated on the Senate floor. We are particularly concerned with proposals for domestic content requirements for sales of automobiles in the United States.

If passage of new trade legislation would lead to enactment of such protectionist provisions, I believe that we would all be much the poorer. For example, the enactment of domestic content requirements would be a direct encouragement to other countries to do the same and could lead, if extended to other sectors, to a severe cutback of world trade.

We broadly support the approach adopted in S. 144, with regard to our Nation's trade direction. It should be emphasized that the provisions in such a bill should be consistent with U.S. international obligations.

At this particular time, when the United States and the other countries of the GATT have recommitted themselves to do their utmost to refrain from taking protectionist measures inconsistent with their GATT obligations, it is in the interest of the United States to continue to demonstrate leadership in building the international trading system.

On this ground, we consider the section 301 changes in S. 144 as among the most important. Specifically, as regards the changes contemplated in section 301 of the Trade Act, we would hope that the committee will define the terms unreasonable, unjustifiable, and discriminatory, in a manner consistent with the principles of the GATT, to the extent that they apply to trade and investment transactions.

When ECAT testified before the Senate Finance Committee on the reciprocity issue last year, we indicated our readiness to support appropriate trade legislation in four major areas. Three of those areas are covered by the pending bill:

First, compilation of an inventory of foreign barriers to U.S. trade, services, and investment, together with a program of action to alleviate or eliminate such barriers;

Second, authority for the President, under section 301, to negotiate on foreign direct investment subject to appropriate safeguards. And, I might add as an aside there, that has specific relevance to some problems that AMF has had in the past.

I would give you the example of the Foreign Investment Review Agency in Canada. There, as a result of having made two acquisitions in the United States, AMF acquired two U.S. companies which owned going subsidiaries in Canada. But, as you probably know, under the terms of the FIRA review, the Canadian Government would not respect what normally would be respected: that, by automatic process of law, having acquired the assets of the parent corporation in the United States, you would be deemed to have acquired all of the assets including the assets in Canada. The Canadian Government says, "No. In order to be deemed to have acquired those assets in Canada, you must comply prospectively with our FIRA review procedure," which could include, for example, as it did in our two situations, the obligation to offer 25 percent of the shares of those corporations to Canadian citizens.

Now, prospectively, that might be an appropriate thing for any government to do, to decide to nationalize or require a certain portion of an industry to become nationalized. But, to require that as a condition of approval of the acquisition of a subsidiary which already had been acquired under U.S. law seems to me to be an inappropriate principle in international law, and this bill, if it became law, would address that problem.

Third, and finally, the third one is the Presidential authority to negotiate for improved access for U.S. trade in services.

The fourth area, which is not covered adequately by S. 144, is the limited Presidential authority to negotiate tariff changes, primarily in order to alleviate tariff disparities between the United States and other countries in the high technology and other areas. It is our view that such a provision, together with the other provisions in the bill, would be of assistance to the competitive sectors of our economy.

Thank you.

Senator DANFORTH. Mr. Samuels?

STATEMENT OF MICHAEL A. SAMUELS, VICE PRESIDENT, INTERNATIONAL, U.S. CHAMBER OF COMMERCE, WASHINGTON, D.C.

Mr. SAMUELS. Good morning, Mr. Chairman.

I am Michael A. Samuels, vice president, International, of the U.S. Chamber of Commerce. Accompanying me is Ava Feiner, the chamber's director for international trade policy.

I will summarize my statement for the committee, and ask that the full statement be put in the record.

The Chamber of Commerce of the United States is the largest federation of business and professional organizations in the country, and is the principal spokesman for the American business community.

The chamber welcomes the opportunity to testify in support of S. 144, a bill aimed at improving access for U.S. business to foreign markets, and commends you, Mr. Chairman, long with the many cosponsors of S. 144, in your efforts to achieve the enactment of market access legislation that advances our Nation's interest in the liberalization of international trade and investment practices.

S. 144 is essentially the same as S. 2094, as reported by the committee during the last Comgress and supported by the chamber then.

The bill is a timely and positive response to the disturbing growth of restrictive market practices abroad. At the same time, it serves U.S. economic interests by seeking to build on the rule of law in international commerce, rather than to collapse world growth through a series of self-defeating, beggar-thy-neighbor actions.

Therefore, in the context of U.S. trade policy, as the legislative process evolves, I also urge you to reject any short-sighted, market-restricting action, such as the auto domestic content bill, which could be proposed as an amendment to S. 144.

I also urge you to reject the addition or adoption of any measure that may be proposed to so-called strengthen the market access bill with protectionist features, such as automatic reciprocal retaliation.

Trade measures before Congress this year should be assessed against the backdrop of pressures worldwide to close markets to trade. A rising tide of trade restrictions threatens to end the prosperity and economic efficiency built up since the end of World War II.

Not so long ago, predatory trade practices plunged the world into the Great Depression. Today, with much greater interdependence in trade, finance, investment, and technology, an even more severe breakdown could take place.

To a large degree, today's trade problems reflect worldwide growth problems. Slow growth shrinks world markets for exports, intensifies trade competition, and heightens resentment among all trade competitors. Slow growth also stifles employment and reduces the alternatives to workers in firms that have lost competitiveness. To a large degree, today's trade problems reflect worldwide growth problems.

A second source of trade tension is change in the structure of the world economy.

The misalignment of the exchange rates of major currencies has been a third source of tension in trade relations.

Finally, countries increasingly are using nontariff barriers and export assists in an effort to stimulate growth, ease adjustment pains, and foster primacy in select key industries.

The provisions of S. 144 are limited. They cannot restore world growth nor ease the pains of economic change; nor can they alone right the wrongs of international trade practices. However, S. 144 takes the important step of setting the right direction for U.S. trade laws and policy—to pursue negotiations to extend international rules to inadequately-covered areas, and to enforce U.S. laws in defense of "fair and equitable" market access for U.S. business, consistent with our international rights and obligations.

Where our trading partners fail to live up to their commitments, we must assert our rights. Where the international characteristics of their economies, their domestic economic policies, and their cultural biases frustrate the objectives of the agreements we have negotiated, we must go back to the bargaining table.

In the interest of assuring that the scope of section 301 is fully understood, the U.S. Chamber supports legislation that clarifies its coverage without running afoul of any of our international commitments.

The U.S. Chamber also believes that the executive branch should utilize its section 301 authority more vigorously, including increasing the self-initiation of cases whenever a serious problem comes to its attention.

However, the chamber would oppose any effort to construe S. 144 as creating a new section 301 cause of action based only on alleged foreign denial of reciprocal treatment.

We would also oppose efforts purportedly to "strengthen" section 301 by calling on the President to respond to unreasonable foreign actions under U.S. law by mirroring them; by enforcing a "bilateral balancing" of trade; or by retaliating by reflex, with little consideration of the cost to our economy, of less-costly alternative avenues of remedy, of the circumstance of the foreign practice, and of U.S. international obligations.

Strict reciprocity formulas are unworkable, self-defeating, and a recipe for accelerating international conflict.

A vital contribution of this legislation to U.S. trade objectives is that it provides the President with authority to negotiate for the liberalization of trade practices concerning services, high technology products, and investment, and clarifies his authority to apply section 301 in defense of U.S. rights in connection with services trade and trade-related investment.

The provisions of S. 144 aimed at dismantling barriers to U.S. trade and services are of particular interest to the chamber. Services have become a vital source of strength in the U.S. economy, and the reduction of overseas barriers to trade in services is essential to our economic progress.

In sum, Mr. Chairman, U.S. gains from trade are best achieved through the liberalization of trade practices, not by a closing of markets to trade. S. 144 rightly encourages our efforts in a positive direction and provides a framework for strong and responsible U.S. leadership; but market restricting amendments to the bill could badly discredit that leadership and should be rejected as counterproductive.

Thank you.

Senator DANFORTH. Thank you. Mr. Walker?

[The prepared statement of Mr. Samuels follows:]

STATEMENT
ON
MARKET ACCESS
before the
SUBCOMMITTEE ON INTERNATIONAL TRADE
of the
SENATE FINANCE COMMITTEE
for the
CHAMBER OF COMMERCE OF THE UNITED STATES
by
Michael A. Samuels
February 4, 1983

I am Michael A. Samuels, Vice President, International, of the U.S. Chamber of Commerce. Accompanying me is Ava Feiner, the Chamber's Director for International Trade Policy. The Chamber of Commerce of the United States is the largest federation of business and professional organizations in the country, and is the principal spokesman for the American business community. The Chamber welcomes the opportunity to testify in support of S. 144, a bill aimed at improving access for U.S. business to foreign markets, and commends Senator Danforth, along with the many cosponsors of S. 144, in their efforts to achieve the enactment of market access legislation that advances our nation's interest in the liberalization of international trade and investment practices.

S. 144, the bill introduced by Senator Danforth and his colleagues last week, essentially is the same as S. 2094, as reported by this Committee during the last Congress. Its major features are: (1) a mandate for new negotiating objectives aimed at extending international rules to trade in services and high technology products, and to the treatment of international investment; (2) a required report by the U.S. Trade Representative on significant barriers to U.S. trade and investment; (3) a clarification of the President's authority to take remedial action against unfair foreign trade practices, and of the statutory basis for such actions; (4) provision of new Presidential authority to propose "fast track" legislation to carry out the remedies he proposes; and (5) improvement of private sector access to remedy through USTR self-initiation of (section 301) investigations into unfair foreign trading practices.

The bill is a timely and positive response to the disturbing growth of restrictive market practices abroad. At the same time, it serves U.S. economic interests by seeking to build on the rule of law in international commerce, rather than collapse world growth through a series of self-defeating, beggar-thy-neighbor actions. Therefore, in the context of U.S. trade policy, as the legislative process evolves, I also urge you to reject any short-sighted market-restricting action, such as the auto domestic content bill, which could be proposed as an amendment to S. 144. I also urge you to reject the addition or adoption of any measure that may be proposed to "strengthen" the market access bill with protectionist features, such as automatic reciprocal retaliation.

Trade measures before Congress this year should be assessed against the backdrop of pressures worldwide to close markets to trade. A rising tide of trade restrictions threatens to end the prosperity and economic efficiency built up since the end of World War II. Not so long ago, predatory trade practices plunged the world into the Great Depression. Today, with much greater interdependence in trade, finance, investment and technology, an even more severe breakdown could take place.

We are now at a watershed in world trade. By yielding to anger and frustration by taking protectionist measures, the United States would lead the world into an era of hardship. Instead, by resisting the closing of markets worldwide through negotiation and a responsible defense of our trade rights, the United States can lead the world in building on our post-war economic achievements.

To a large degree, today's trade problems reflect worldwide growth problems. Slow growth shrinks world markets for exports, intensifies trade competition, and heightens resentment among all trade competitors. Slow growth also stifles employment and reduces the alternatives to workers in firms that have lost competitiveness.

A second source of trade tension is change in the structure of the world economy. Technology, knowledge and the development of foreign economies are changing the competitive structure of the U.S. economy, and those of foreign economies. Over time, these changes should expand jobs and raise living standards in all countries, including the U.S. But, in the near term, certain workers and firms bear heavy adjustment burdens. This situation creates opposition to change and pressures for import protection.

The misalignment of the exchange rates of major currencies has been a third source of tension in trade relations. The value of the dollar in relation to other major currencies remains too high, inflating the foreign cost of U.S. products and lowering the cost of foreign products in U.S. markets. This misalignment probably is the single most important cause of the recent decline in our trade position.

Finally, countries increasingly are using non-tariff barriers and export assists in an effort to stimulate growth, ease adjustment pains and foster primacy in select key industries. In some countries these measures form part of a concerted industrial policy. Although these measures often are justified as purely "domestic" policies, many significantly distort international markets, robbing unaided U.S. firms of sales.

The provisions of S. 144 cannot restore world growth, nor ease the pains of economic change. Nor can they alone right the wrongs of international trade practices. However, S. 144 takes the important step of setting the right direction for U.S. trade laws and policy -- to pursue negotiations to extend international rules to inadequately covered areas, and enforce U.S. laws in defense of "fair and equitable" market access for U.S. business, consistent with our international rights and obligations.

Where our trading partners fail to live up to their commitments, we must assert our rights. Where the internal characteristics of their economies, their domestic economic policies, or their cultural biases frustrate the objectives of the agreements we have negotiated, we must go back to the bargaining table. Our government must take up the cause of industries and individual companies when other countries do not play by the internationally accepted rules of the game. We must also pursue new international agreements to cover unregulated areas of economic activity, as necessary to advance our interests.

The U.S. Chamber has in the past maintained that new legislation is not needed to address inequities in market access, believing that the executive branch already has tools sufficient to enforce U.S. trade rights and to secure fair and equitable market access for U.S. products, services, and investment. The most comprehensive is section 301 of the Trade Act of 1974, as amended.

However, questions have been raised concerning the adequacy of section 301 for responding to unreasonable foreign government actions not only against the merchandise trade of the United States but also against U.S. services and high technology trade, the trade related aspects of U.S. foreign investments, and unreasonable actions denying adequate protection of U.S. intellectual property rights. Therefore, in the interest of assuring that the scope of section 301 is fully understood, the U.S. Chamber supports legislation that clarifies its coverage, without running afoul of any of our international commitments.

The U.S. Chamber has also maintained that, were the executive branch to utilize its section 301 authority more vigorously, including increasing the self-initiation of cases, whenever a serious problem comes to its attention, several objectives could be accomplished, including: (a) political and legal pressure on an offending government to end its unfair trade practices; (b) "encouragement" of a favorable response by a foreign government due to the threat of enforcement actions; (c) reinforcement in the eyes of the world of the commitment of the U.S. government to secure for U.S. concerns fair and equitable market access; (d) reduction of protectionist pressures upon the Congress; and (e) demonstration to the private sector that the government intends to defend U.S. trade rights, thereby building support for the rules of the international trading system.

While we do not believe that the Congress should mandate that section 301 be used in every instance of alleged unfair trade practice or that remedies need always be retaliatory, we do feel that it is appropriate for the Congress to signal its concern about the underutilization of this authority.

However, the Chamber would oppose any effort to construe S. 144 as creating a new section 301 cause of action based only on alleged foreign denial of "reciprocal" treatment. The establishment of a new cause of action is not required, though section 301 would be improved by clarification of the statutory basis of claims against unreasonable actions, as proposed in S. 144.

We would also oppose efforts purportedly to "strengthen" section 301 by calling on the President to respond to unreasonable foreign actions under U.S. law by mirroring them; by enforcing a "bilateral balancing" of trade; or by retaliating by reflex, with little consideration of the cost to our economy, of less-costly alternative avenues of remedy, of the circumstance of the foreign practice, and of U.S. international obligations.

Mirroring the unfair practices of foreign countries serves only to import their trade and industrial policies indiscriminately. Reflex retaliation permits foreign practices, rather than the deliberate weighing of our national interests, to shape our economic laws and policies. Bilateral balancing would defeat the gains arising from multilateral trade based on comparative advantage. It would also expose the United States to the "balancing" restraints of those of our trading partners, such as the European Community, who run deficits in their trade with the United States.

Finally, strict "reciprocity" formulas are unworkable, self-defeating and a recipe for accelerating international conflict. It would be unrealistic for the United States to insist that all countries adopt the same laws and policies as we do. To be effective and credible, U.S. laws should reflect international rules and commonly accepted norms about fair trade behavior. U.S. efforts to impose arbitrary standards on our trading partners are apt to fail and produce only an exchange of recriminations.

A vital contribution of S. 144 to U.S. trade objectives is that it provides the President with authority to negotiate for the liberalization of trade practices concerning services, high technology products and investment, and clarifies his authority to apply section 301 in defense of U.S. rights in connection with services trade and trade-related investment.

The provisions of S. 144 aimed at dismantling barriers to U.S. trade in services are of particular interest to the Chamber. Services have become a vital source of strength in the U.S. economy, and the reduction of overseas barriers to trade in services is essential to our economic progress. The November GATT Ministerial appears to have opened a channel for negotiation in services, but a strong legislative mandate is necessary to enable firm U.S. leadership in building an international framework of discipline.

American service industries encounter a formidable array of barriers in both developing and industrialized countries. In spite of the diversity of the service sector industries, many of the obstacles faced are the same. Also, barriers are looming over some of the rising, heretofore unrestricted, service activities, such as information transmittal, electronic communication, and transborder data flows. Also, in certain service areas where international arrangements once protected service exporters - for example, in the commercialization of industrial property rights - traditional protections are eroding.

U.S. trade law with respect to services is incomplete, but radical reform is not required. The Chamber believes the following revisions or clarifications are needed:

- A clear congressional directive to the President to seek agreement in service trade as a principal objective under section 102 of the Trade Act of 1974, as amended, would strengthen our negotiators' hands and would also prevent services from being virtually ignored in any future negotiations as they were during the Tokyo round.

- We feel that trade barriers impeding the foreign establishments of U.S. service enterprises in foreign countries are within the realm of "barriers to international trade" as the term is used in section 102. However, arguments have been made that establishment-related issues involve investment, not trade, and, therefore, are not covered. Thus, legislative clarification is in order.
- Consultation by U.S. negotiators with private advisory committees is necessary while negotiating objectives are being developed. Also, state regulators should be a part of the preparations for any negotiations dealing with services they regulate. The U.S. Trade Representative (USTR) already does an excellent job of keeping in touch with the private sector. Still, it needs to be made more clear that USTR should consult with industry and, as appropriate, with the states, before the United States sets its negotiating strategies or decides on methods of implementation.
- The USTR should, through the Trade Policy Committee and its subcommittees, have the lead trade policy responsibility for services and the authority necessary for involving and coordinating federal departments and agencies, including independent regulatory agencies, in service trade policy formulation and negotiation.

Federal departments and agencies responsible for service sector activity, including its regulation in the United States, should advise the USTR of pending matters involving: (1) the treatment accorded United States service sector interests in foreign markets, or (2) allegations of unfair practices by foreign governments or enterprises in a service sector and proposed disposition of such matters. While openness of foreign country markets should be a consideration in agency decision-making, we do not support sectoral or mirror-image reciprocity in U.S. regulatory proceedings or in services trade.

- The Secretary of Commerce should be authorized in law to establish a service industries development program designed to promote U.S. service exports and to collect and analyze appropriate data. At present this has been done through executive order.
- While we believe that section 301 is fully intended to address subsidies and unfair pricing in the service sector, in practice questions have been raised about executive branch willingness to apply this authority in such cases. Clarification of section 301 is needed to resolve this situation.

The Chamber supports S. 144 because it helps advance U.S. basic interests in a liberal and expanding world trade order. Expanding trade stimulates growth, employment, industrial competitiveness and higher living standards in the United States. Improving U.S. trade performance should be a vital element of our economic recovery efforts.

U.S. gains from trade are best achieved through the liberalization of trade practices, not by a closing of markets to trade. Progress is made by building on our achievements, not by destroying them. Protection and reflex retaliation are self-defeating. Efforts to improve U.S. market access should rely on aggressive negotiating, effective enforcement of U.S. laws in defense of our rights and economic policies that support fierce competition by U.S. business for world markets. S. 144 rightly encourages our efforts in a positive direction.

Though the immediate results of the recent GATT Ministerial were disappointing in some important areas, its lasting consequences will depend on the ability of GATT's leading members to follow through with commitment to maintain and expand on the rule of law in internatinal trade and investment. The U.S. role in the effort will be critical. Enactment of the market access bill would provide a framework for strong and responsible U.S. leadership. But market-restricting amendments to the bill could badly discredit that leadership, and should be rejected as counterproductive.

STATEMENT OF WILLIAM N. WALKER, PARTNER, MUDGE, ROSE, GUTHRIE & ALEXANDER, ON BEHALF OF THE U.S. COUNCIL FOR INTERNATIONAL BUSINESS

Mr. **Walker**. Thank you, Mr. Chairman.

My name is William N. Walker. I am a partner in the law firm of Mudge, Rose, Guthrie & Alexander. I was Deputy Special Trade Representative and head of the U.S. Delegation to the Tokyo round trade talks from 1974 to 1977.

I appear before this committee today on behalf of the U.S. Council for International Business. Mr. Chairman, I have a written statement which I would ask be inserted in the record, and I will simply summarize my remarks.

The U.S. Council endorses this legislation in its present form, as we did during the last session. We believe that a systematic prodedure for the administration to identify and analyze key barriers to U.S. trade in products, services, and investments is a useful effort;

Second, we believe that a clarification of section 301 is a desirable effort;

And, third, we believe it is useful to provide for major negotitions to achieve international agreements that encourage fair and open trade in services, investment flows, and high technology;

And the services area is one where the U.S. Council feels a special importance and one on which they would place a special emphasis;

We would associate ourselves with the remarks of the other two organizations that appear with us on this panel. We also feel that any reciprocity legislation must be consistent with our international obligations under the GATT and stress the multilateral rather than the bilateral aspects of trade policy;

And we are concerned at the prospect of use of this legislation to impose unilateral trade policies upon the rest of the world.

Let me add a couple of additional comments, if I may, Mr. Chairman.

In introducing the bill, on January 26 in the Congressional Record you observed that "Since the last round of multilateral trade negotiations and the passage of the Trade Agreements Act of 1979, American policy has largely consisted of reacting to a flood of imports.

"I do not denigrate the importance of this effort; yet, in the process, attempts to expand market access for American-produced goods have proceeded in an ad hoc manner, at best."

I think that's true, but I think it ought to be put in perspective—and indeed I had hoped that Senator Long might have been here, because he spoke this morning in somewhat the same terms, to the effect that we have lost markets overseas that we must regain.

The fact of the matter is, Mr. Chairman, that we have expanded very dramatically American exports over the past decade, over the past 2 years. In fact, the share of U.S. GNP devoted to exports has practically tripled in the last 10 years. As you know, one manufacturing job out of five or six is not for export; nearly 2 out of every 3 acres harvested is destined for export markets.

So that, yes, we are proceeding in an ad hoc manner; yes, there are barriers to American exports overseas; but yes, it's also true that American business is succeeding in penetrating those markets, and it is a subject on which we ought to take pride and not hide our light under a bushel or be shy about.

You also point out that "The U.S. balance of trade in merchandise went into deficit in 1971 for the first time in more than three-quarters of a century. Last year that deficit reached close to $40 billion, including significant bilateral deficits with a number of our trading partners."

Again, that's absolutely true; but if one looks at the component of the balance of trade, and one were to remove from that our oil imports, which have nothing whatever to do with our international competitiveness, in fact we would find a very, very large trade surplus.

Now, even last year, with a nearly $47 billion trade deficit, our oil imports accounted for more than $60 billion. Therefore, if you remove that, we have again a trade surplus.

The point here is to emphasize the importance of the American stake in the world trading system, and the degree to which we have succeeded in that system.

One of the things that I think we have to keep in mind is that in the kind of global economic environment in which we find ourselves today we are dealing, essentially, with a zero-sum game. World trade is not expanding; in fact, last year world trade actually contracted.

Every nation has on its agenda discouraging consumption, reducing imports, and expanding exports. It is perfectly evident on the fact of it that not every nation can succeed with those policies simultaneously. And the risk that we see is that as nations scramble for a piece of the pie, and if they behave in a unilateral fashion as distinct from a fashion that is guided and regulated albeit imperfectly by the multilateral rules of the GATT trading system, that a series of recurring rounds of protectionist impulses will assert themselves which would redound to our very great detriment.

The American economy has a vital interest in the maintenance of the open, if imperfect, world trading system, and therefore we would hope that this legislation would not be used in a fashion that would be inconsistent with that interest.

Thank you, Mr. Chairman.

[The prepared statement of William Walker follows:]

STATEMENT OF WILLIAM N. WALKER
ON BEHALF OF
THE UNITED STATES COUNCIL FOR INTERNATIONAL BUSINESS
BEFORE THE
INTERNATIONAL TRADE SUBCOMMITTEE
OF THE
SENATE FINANCE COMMITTEE

Mr. Chairman and members of the Committee, my name is William N. Walker and I appear today as Chairman of the Commercial Policy Committee of the United States Council Council for International Business. From 1975-1977, I served as Deputy U.S. Trade Representative and Head of the U.S. Delegation to the Tokyo Round of Multilateral Trade Negotiations. I am currently a partner in the law firm of Mudge Rose Guthrie and Alexander.

I would like first, to congratulate the members of the International Trade Subcommittee, and especially Chairman Danforth, for their diligent work in promoting fair treatment for U.S. exporters, and in providing this valuable public forum in which the views of industry, government and labor are given due consideration. This is the second time in recent months that we have been invited to present our view on matters relating to U.S. international trade and investment policy.

As the U.S. affiliate of the International Chamber of Commerce, our objective is to promote the most open trade system possible, and, in our advisory capacity with the GATT, OECD, IMF and E.C., we have worked with businessmen from over 50 countries to achieve this end. We are concerned about erosion of support of the GATT system, and the increasing efforts by many of our trading partners to undermine its authority. These governments, alarmed by rising imports and struggling to fight unemployment, have insulated certain sectors from foreign competition through government subsidization, performance requirements, currency devaluation, and voluntary restraint agreements. All of these actions represent a derogation from the rules of international trade. This is the fundamental problem which the Danforth bill was designed to address---how to induce or trading partners to abide by the rules of the game. Put simply, the Danforth bill (S-144) says that if foreign governments wish to enjoy open access to the U.S. market they should be required to offer comparable access to their own.

On its face this is a laudable goal. U.S. Council members have scores of personal "horror stories" about particular trade burdens they face in foreign markets. Trade relations with developing nations have always been problematic in this regard, but today the problem is not limited to LDCs. Major industrialized states like Japan, Canada and the European Community have adopted discriminatory policies that keep out U.S. exports. Even in those sectors where the United States enjoys a comparative advantage, U.S. investments are being shut out by restrictive laws which clearly discriminate against foreigners. Reciprotarians argue that our government must be prepared to retaliate against others' restrictive policies with like measures of our own. The U.S. Council has deep reservations about the application and scope of such an approach.

We are concerned that a misapplication of the reciprocity principle could worsen, not improve our economic vitality by undermining an already vulnerable multilateral trading system. At the same time we realize that there remains a need for greater, more equitable access to foreign markets. Mitigating the tension between these two objectives is the central task of U.S. trade policy. In this regard, the U.S. Council wishes to make the following observations:

1. THE UNITED STATES IS THE WORLD'S LARGEST TRADER.

Nearly half of our farm sales and one-sixth of our manufacturing jobs are export-related. Exports now account for nearly 14 percent of U.S. GNP, nearly three times its share a decade earlier. Our stake in a smooth-functioning international trade regime is tremendous and growing. In our view, legislation that would require bilateral, sectoral, or product-by-product reciprocity is a threat to that system.

The President should have the ability to respond to discriminatory foreign trade and investment practices, but we should not allow solutions to bilateral problems weaken the foundation on which our success as a trading nation has been built. Our frequent spats with the Japanese illustrate how reciprocity can become a two-edged sword. We may want reciprocity in the case of Japan where last year we suffered a $20 billion trade deficit, but do we want it with the European Community where we have had a trade surplus nearly every year since it was formed in 1958, and where last year we enjoyed a $17 billion surplus? Moreover, it would be dangerous to seek a trade balance with Japan as our standard of fairness, because the Europeans would certainly pursue the same policy in regard to the U.S.-E.C. trade.

2. AT LEAST IN PART, U.S. TRADE PROBLEMS ARE OF OUR OWN MAKING.

It is always easy to blame outsiders for our economic woes, but they result in large part from an inability to understand the importance of foreign markets to our domestic economic well-being. There has been a sudden and rather belated recognition that trade relations have significant effects for world economic activity, domestic economic policies, and the standard of living for people everywhere. It is only recently that exports have been popularly recognized by Americans as vitally important to their own economic welfare.

Many existing U.S. laws act as barriers to exports and foreign investment. These include: uncertainties surrounding the Foreign Corrupt Practices Act (FCPA), extraterritorial controls on exports and reexports, economic constraints imposed for foreign policy purposes, inadequate financing for the Eximbank, and antiboycott statutes and regulations. In short, we have done little to promote U.S. foreign trade, and have in fact hindered exporters through cumbersome laws and practices. Positive legislation to remove export disincentives and provide incentives in their stead will be more effective in enhancing our international competitiveness than new punitive reciprocity legislation. Toward this end, we have testified in hearings to amend ambiguities in the FCPA, and increase financing for the Eximbank.

3. RECIPROCITY IS SUBJECT TO BROAD INTERPRETATION.

At present, there is no agreement on how to define the term. Some regard reciprocity as a balancing of trade between countries and within sectors. As I have tried to suggest, too narrow a focus on trade deficits produces a distorted view of our overall trade picture. Bilateral trade imbalances do not alone provide grounds for retaliation, although this is what many reciprotarians argue. The GATT defines reciprocity as negotiations undertaken on a "reciprocal and mutually advantageous basis." Broadly defined, this is a goal to be achieved in the overall trading relationship between countries, not a performance test for specific sectors.

The U.S. Council is prepared to support legislation that strengthens the principle of nondiscriminatory most-favored nation treatment, under which a concession granted to one trading partner must be granted to them all. By this arrangement, the aggregate benefits derived by each party are substantially equivalent to concessions given by any other. We would agree that our goal should be to ensure "substantial equivalence" by moving our trading partners to a level of market openness more similar to our own. This can only be done through the liberalization of foreign markets, not by raising restrictive barriers to our own.

The variety of reciprocity now being advocated by some veers sharply from our definition under the GATT. Its thrust is protectionist and retaliatory, and the emphasis is on unilateral enforcement rather than multilateral cooperation. The new style reciprocity rests on the assumption that trade and investment opportunities offered by the United States have been greater than the opportunities we have been afforded, and that current enforcement tools are inadequate to correct the imbalance. Its focus is on closing U.S. markets to any country which does not afford U.S. business exactly equal opportunities in particular sectors, rather than on achieving equivalent trade concessions across a broad spectrum.

4. RECIPROCITY IS HIGH RISK BUSINESS.

If we breach our own GATT obligations as others have done, we invite certain retaliation. Our trading partners will be forced to take unilateral action not necessarily confined to the product or industry which was the subject of our action. The recent U.S.-Chinese textiles skirmish provides a good example.

After failing to reach agreement on a new textiles agreement, U.S. officials unilaterally restricted imports of 32 Chinese apparel and textile items. The Chinese responded by banning further purchases of U.S. cotton, soybeans, and synthetic fibers. Peking officials have hinted that China might also reduce imports of U.S. corn, timber and wheat (China is the #1 importer of U.S. wheat). Here is a clinical example in which temporary relief to one sector is gained at the expense of other economically vital, and unrelated sectors. Clearly, once reciprocity is set in motion, we can have no control over the sectors which might be the target of foreign retaliation.

In assessing the situation, we must also keep in mind that our share of the world's exports has grown from 11.9 percent in 1977 to 13.5 percent in 1982, representing almost one-fifth of U.S. GNP. The U.S. is a net exporter of services and agricultural goods, and U.S. foreign direct investment nearly triples that of foreign companies in the United States. We are not invulnerable , and in fact, have much to lose by adopting a high-risk trade policy that may undermine the international trading system that has served us well.

Moreover, we in the United States are not completely pure. We protect our automobile, textile, steel, and agricultural sectors. Other countries may use this as a pretext for closing off their markets to our most competitive exports. The result would constrict trade, exacerbate tensions, and delay inevitable economic adjustment.

CONCLUSION

Mr. Chairman and members of the Committee: we recongize the need for positive action to ensure equality of opportunity for U.S. businessmen. Despite past progress in liberalizing the international trading system, there are still gaping inequalities in access among the markets of the major trading countries in certain sectors. The United States can ill afford to advocate free trade as a national policy unless our major trading partners are prepared to abide by the same commitment. Indeed, no nation can sustain public support for any policy unless its people sense that there are tangible gains to be had from the application of that policy. The perception that we are being shortchanged in the trade arena has lead to the current outcry for retaliation. Statutory authority clarifying and strengthening the President's ability to deal with inequitable market access might be a means of increasing the gains from free trade; but a distorted use of reciprocity could trigger retaliation abroad, further depriving the U.S. of export markets, and erode, if not eliminate our role as world leader in trade liberalization.

With this in mind we offer the following policy guidelines:

(A) Any attempt to improve foreign trade and investment opportunities should have as its focus trade expansion, not trade restriction. The dangers of foreign retaliation are too great, and the benefits too limited, to warrant our derogating from the rules of international commerce. It has been estimated that some 80 percent of all new manufacturing jobs in America between 1977-1980 were related to exports. Clearly, job creation is ultimately dependent on export expansion.

(B) The U.S. Council supports legislation which whould provide a statutory mandate for the President to undertake negotiation of international rules in the area of services and investment. Perhaps the most important focus of the Danforth bill is its recognition that services and investment issues fall outside the purview of normal trade rules. We support the strengthening of international institutions and expansion of international agreements to those areas, such as services and investment, not presently covered under international law.

In contrast to the goods trade, we are operating without any meaningful international rules for services, an area of expanding opportunities and growing barriers as well. Additional negotiating authority in these two areas is an important tool in addressing many of the problems U.S. businessmen now face in foreign markets. Current rules and enforcement procedures for services and investment are simply inadequate. This bill's attempt to provide for the improvement and strengthening of negotiating authority in the critically important areas of services and investment serves the best interests of our economy and our people.

(C) Any reciprocity legislation must be consistent with our international obligations under the GATT, and stress the multilateral rather than bilateral aspects of trade policy. The United States must assert its political will and leadership to ensure that the gains of the multilateral trading system are not lost. The benefits of a free trade system are long term, diffuse and often distant, but the pain in particular industries for people who have lost their jobs to imports is immediate, specific, and accute. Congress is under great pressure to do something now. We would hope that reciprocity legislation is not formulated as a desparate attempt at import relief, but in recognition of broader national economic interests. In this way we can begin to address some of the very real problems that plague the economy at home and U.S. investors abroad.

Thank you for your time. I would be happy to answer any questions from your Committee, Mr. Chairman.

Senator **Danforth**. Gentlemen, thank you very much for your testimony.

At a time of recession and a time of major penetration of U.S. markets in particular sectors of our economy, there is an increased call for protectionism. And there is, as you have pointed out, the possibility that this bill could be used—particularly on the floor of the Senate—as an opportunity to turn it into kind of a Christmas tree of protectionist legislation.

My view of this bill is that it is an antidote to protectionism. That is to say that it is important to assure the American people that we are not going to be chumps. It is important to assure the American people that if we play by the rules of the game we are going to insist that our trading partners play by the rules of the game, and that we are going to have access to their markets, and we are going to have tools available which make such access possible.

I would like you to reflect for the record, if you would, on what would happen if this bill were to become a Christmas tree for protectionism—domestic content, or something else. What would be the effect on the parts of the business community you represent if we got into a full-fledged protectionist approach to international trade?

Mr. **Nelson**. I could start off by saying that since AMF has about 35 to 40 percent of its business overseas—that is to say a product that is manufactured in a foreign country and sold either in that country or exported from it—we would be very much concerned as to the consequences in terms of retaliation, because, as you well know, many foreign countries tend to be more protectionist right at the very beginning. We have had to deal with this sort of problem for years as we tried to penetrate various foreign markets and have had to in some situations go in and invest in those markets.

So we would see it as a negative of a very serious nature that would over time reduce the volume of our business and perhaps the profitability of our operation.

I would therefore recommend that if it becomes such a Christmas tree with domestic content, for example, attached to it, that it should not become law.

Senator **Danforth**. Mr. Samuels?

Mr. **Samuels**. Mr. Chairman, I think we might look at the options, the two options, in terms of a circle.

Let's assume that the circle exists now; it's today's trading system. If you put those ornaments on the Christmas tree of protectionism, and close that circle down, what you have is reduced economies here and abroad.

If, on the other hand, you pushed the edge of that circle outward, with the goal of expanding that circle and expanding world growth, and getting better access for the United States and its products, this is better for everyone. To me, that is a simple symbol of what could be done by the passage of your legislation but what shouldn't be done by turning it into a Christmas tree.

Senator **Danforth**. Mr. Walker?

Mr. **Walker**. Mr. Chairman, I think it's very hard to overstress the calamity that would confront not just the American economy but American foreign policy if the kind of Armageddon that you described were to occur, that this became a full-fledged protectionist piece of legislation that unleashed protectionist retaliation in the world.

The United States, as I discussed a moment ago in my remarks, has an enormous stake in world trade. Other nations have the same kind of stake; and if those markets were closed off, the impact upon unemployment, lost jobs, lost investment, would be very grave indeed.

But look at it just from a narrow standpoint at the impact in the developing world. The United States today sells over 35 percent of its exports in the developing world. Forty percent of its manufactured exports go to the developing world. If we were to close our markets to their exports, they would not have the foreign exchange to buy our products. The result would be not just economic chaos in those countries but political chaos as well, and an invitation to the kinds of anti-Western revolutionary governments that are most hostile to our values.

I think, even looking at the developed world one has to share the concern that, where the countries of Europe today are experiencing levels of unemployment that are comparable to our own, in some areas even higher than our own, how much more can those societies stand and continue to function as Western democracies?

Economics and politics are intertwined, and I don't think that we can assume that free institutions could survive economic warfare.

Senator **Danforth**. Well, thank you for very clear statements. I want to assure you, as I have assured the administration and everyone else, that if this does turn out to look like a Christmas tree, I will personally assume responsibility for taking down the Christmas tree.

Mr. Walker, I would like to ask one other question of you because it is my understanding that you represent the anticounterfeiting coalition. I would like you to comment, if you would, on the intellectual property rights issue and how S. 144 deals with that.

Mr. **Walker**. Yes. The language in S. 144 that amends section 301 to deal with the problem of property rights is one that we think is very important. I say "we," not speaking as the U.S. Council for International Business; I am not authorized to speak for them in that context although they have endorsed the objective of an international counterfeiting code. But the International Anti-Counterfeiting Coalition, composed of approximately 70 U.S. and foreign businesses, is very much concerned about proper international protection for intellectual property rights—trademarks, copyrights, and the like.

There are governments in the Far East, particularly the Government of Taiwan, that do not provide adequate protection to American and other property rights in their markets, and they are a haven for export of counterfeit merchandise which is a fraud upon the consumer and a burden on the manufacturer throughout the world.

We believe that the language that is in section 301 will provide the President and the administration with additional leverage to encourage and persuade recalcitrant governments to respect internationally agreed rights of intellectual property, and we commend you particularly for that provision of the law.

Senator **Danforth**. How serious a problem is that?

Mr. **Walker**. It is a problem of extraordinary seriousness, and growing. The variety of products that are subject to counterfeiting is virtually endless.

People are familiar with the counterfeiting of Levi's jeans or Cartier watches, luxury items of that sort—Pierre Cardin, and so on—but they are not so familiar with the fact that counterfeiting is becoming an extremely serious problem in aircraft replacement parts, in agricultural chemicals, automotive parts, pharmaceuticals, products that very much touch the health and safety of consumers in the United States and elsewhere.

There is an obvious economic incentive on the part of pirates to use the good will and integrity that a trademark has acquired and pass off a shoddy product, perhaps an unsafe and dangerous product, as being the real McCoy, when it's not. And there is a serious danger to consumers. And there is a very great cost to manufacturers.

Mr. **Nelson**. I can endorse that, Senator, in that we have this problem that Bill is referring to, in a very real sense, with Head tennis racquets, which are made in rip-off form in Taiwan. We keep chasing them all the time, but we have not been able to stop it.

Mr. **Samuels**. Mr. Chairman, in my prepared remarks I included comments very similar to those of my colleagues here on the panel.

I would say that it would be useful if the executive branch, in its dealings with those countries that have adopted a laissez faire attitude toward piracy, to consider relating the political and security benefits that some of those countries get from association with us, perhaps, to get them to do something to restrict their own piracy. That conflict is a significant one that we have in the past been unprepared to face directly. And perhaps, if on its own the executive branch can't get the gumption to do something about it, your legislation may do something.

Senator **Danforth**. Gentlemen, thank you very much.

Mr. **Walker**. If I could add just one footnote, Mr. Chairman, in that regard—the initiative for an International Anti-Counterfeiting Code is still on the GATT agenda. It was not finally agreed to at the November Ministerial meeting—unhappily. The matter is to be, as I understand it, put before a GATT working party sometime soon.

This committee has in the past offered encouragement to the administration to keep that code as one of their high trade-policy priorities, and I hope that perhaps in this session the committee can renew its encouragement to the administration to followup on that initiative.

Senator **Danforth**. Gentlemen, thank you very much.

Mr. **Walker**. Thank you, Mr. Chairman.

Senator **Danforth**. Next we have Steve Koplan.

STATEMENT OF MR. STEVE KOPLAN, LEGISLATIVE REPRESENTATIVE, AFL-CIO

Mr. **Koplan**. Good morning, Mr. Chairman.

Senator **Danforth**. Good morning, Steve.

Mr. **Koplan**. I am accompanied this morning by Elizabeth Jager, an economist in our department of economic research.

I will not read my full statement; I will summarize it for the record, and I ask that the full text of my statement appear as though it had been read. Thank you, Mr. Chairman.

Mr. Chairman, the AFL-CIO appreciates this opportunity to present its views on S. 144; however, we believe the approach in this proposal diverts attention from the real problem. Instead of trade reciprocity that could be achieved, this latest version further acquiesces to the administration's demands that new legislation not mandate action to assure reciprocity but rather provide for additional negotiating authority.

What is needed desperately is enforcement of existing laws, including remedies provided in the Trade Act of 1974.

It is our view that existing law empowers the President to act effectively; however, most past administrations lacked the will to exercise that authority, and the present administration is no exception. To date, its legislative trade proposals would unilaterally encourage U.S. imports at the expense of American industries and jobs.

In the Trade Act of 1974, a stated purpose of trade agreements affording mutual benefits is "to harmonize, reduce, and eliminate barriers to trade on a basis which assures substantially equivalent competitive opportunities for the commerce of the United States."

Section 125 of the act provides in pertinent part that the President "may at any time terminate, in whole or in part, any proclamation made under this act."

In addition, section 301 as amended enables the President to take "all appropriate and feasible steps within his power to obtain the elimination of foreign countries, unreasonable trade restrictions or subsidies affecting U.S. commerce." We believe that section 301 covers trade in services and in high technology as well as goods.

S. 144 in our view, unfortunately, fails to create a mandate for action and enforcement. For example, even with this bill, section 301 will continue its track record of virtually no self-initiations by the government and a reliance instead on the petition process.

We note that this latest version of the bill has unfortunately eliminated an earlier requirement that the Office of the U.S. Trade Representative include in their annual reports to the Committees on Ways and Means and Finance information on any action being taken with respect to the actions which have been identified and analyzed under section 301 or international negotiations or consultations. We question why that mild reporting requirement was deleted from the bill.

Senator DANFORTH. It has not been deleted—it was a printing error.

Mr. KOPLAN. Thank you, Mr. Chairman. I stand corrected.

We also note that the bill reported by the Finance Committee last year required the Department of Commerce to submit a report within 1 year analyzing factors affecting the competitiveness of U.S. high technology industries. These factors would include these not dealt with in STR's report. However, S. 144 fails to include this requirement.

Mr. Chairman, we also oppose section 8 of S. 144, which would grant the President for 5 years the authority to reduce or eliminate existing U.S. tariffs on six high technology items relating to computers and semiconductors.

In addition, S. 144 contains a provision that would further encourage U.S. direct investment abroad. This is proposed at a time when the United States is suffering from a severely weakened industrial base; in these troubled times we do not believe that investments overseas should be a negotiating priority of our Government.

We are pleased that this legislation seeks to secure more information on foreign trade barriers for the American public. Such procedural requirements are an excellent idea but cannot be implemented unless adequate funding is provided to assure that the directions of the Congress to the executive branch can be carried out. Otherwise, the responsibility, which under the bill is given to the Office of STR, will effectively be left in the hands of foreign interests and the traders, regardless of the impact on jobs and production in each congressional district. In addition, the annual STR study of foreign barriers provided in the bill is not linked to any subsequent action by the President.

We note that the administration has no such reciprocity standard in its trade legislative proposals. For example, the Caribbean Basin Initiative would funnel imports from the world through the Caribbean countries into the U.S. market. This amounts to discrimination against U.S. industries and workers—not "reciprocity" even in principle. The AFL-CIO continues to oppose such action.

The fact is, Mr. Chairman, the United States is suffering from rising imports in a wide variety of industrial products while the economy is moving downward. This costs jobs, production, and America's future development. Unfair trade arrangements encourage the expansion of production abroad for the U.S. and foreign markets, decimate small businesses unfairly, and restrict U.S. exports.

In order to have reciprocal access for U.S. exports, trade policy must encourage efficient U.S. production of goods and services. Section 201 of the Trade Act provides that the International Trade Commission can recommend relief for an injured U.S. industry.

The President has the power to seek relief and to act on recommendations of the ITC; however, to our knowledge, the administration has failed to act on behalf of any U.S. industry in a section 201 case, with the exception of clothes pins, ferrochrome, and porcelain cookware. It remains to be seen whether the President will follow the recommendation of the International Trade Commission for tariff relief in the Harley-Davidson motorcycle case.

Mr. Chairman, we believe vigorous enforcement of existing law and a change in U.S. trade policy are long overdue.

Thank you, Mr. Chairman.

[The prepared statement of Mr. Koplan follows:]

STATEMENT OF STEPHEN KOPLAN
LEGISLATIVE REPRESENTATIVE, DEPARTMENT OF LEGISLATION
AMERICAN FEDERATION OF LABOR & CONGRESS OF INDUSTRIAL ORGANIZATIONS
BEFORE THE SUBCOMMITTEE ON INTERNATIONAL TRADE
OF THE SENATE FINANCE COMMITTEE,
THE RECIPROCAL TRADE & INVESTMENT ACT — S. 144

February 4, 1983

The AFL-CIO appreciates this opportunity to present its views on S. 144, a bill supposedly intended to establish reciprocity of market access as a key element of U.S. trade policy. However, the approach in this proposal diverts attention from the real problem. Instead, of trade reciprocity that could be achieved, this latest legislative version further acquiesces to the Administration's demands that new legislation not mandate action to assure reciprocity but rather provide a blank check for additional negotiating authority. What is needed desperately is enforcement of existing laws, including remedies provided in the Trade Act of 1974. Enforcement of law would make reciprocity in trade at long last a reality.

When AFL-CIO President Lane Kirkland testified before this Subcommittee in July of 1981, he called attention to this problem

> **"Where other nations bar U.S. products through one means or another, the opportunity to enforce U.S. laws to gain access should be encouraged to even out the burdens in the world. Equivalent access to foreign markets is the key."**

In December, 12 million Americans were listed officially as unemployed. In addition, there are now 1,849,000 "discouraged workers" who want jobs and are no longer looking, and half of the 6,245,000 part-time workers who are not working full time because of the depressed economy — a total of about 17 million people. Failure to enforce existing law results in greater U.S. imports of manufactured products at the further expense of American industries and jobs.

It is our view that existing law empowers the President to act effectively to assure fair trade. However, most past Administrations lacked the will to exercise that authority and the present Administration is no exception. To date, its legislative trade proposals would unilaterally encourage U.S. imports at the expense of American industries and jobs. For example, in the last Congress even a simple extension of the manufacturing clause of the U.S. copyright laws required a Congressional override of a Presidential veto -- even though possibly as many as 367,000 jobs were affected.

Many times in the past, the AFL-CIO has come before the Congress asking for help to save American industries and jobs. Too often the responses have been too little or too late or not at all, and year after year the strong, broad-based industrial machine that was America has been weakened and its workers displaced, not because our industries have become obsolete, but because they have been overwhelmed by foreign practices.

In February of last year, the AFL-CIO Executive Council stated,

> **"vigorous enforcement of reciprocity provisions of the Trade Act must be undertaken."**

In the Trade Act of 1974, a stated purpose of trade agreements affording mutual benefits is, "to harmonize, reduce and eliminate barriers to trade on a basis which assures substantially equivalent competitive opportunities for the commerce of the United States."

Section 125 of the Act provides in pertinent part, that the President "may at any time terminate, in whole or in part, any proclamation made under this Act."

Mr. Chairman, we believe that Section 125, which provides the President with termination and withdrawal authority from trade agreements -- if utilized -- amounts to adequate authority to address the problem of trade discrimination. In addition, Section 301, as amended, enables the President to take "all appropriate and feasible steps within his power to obtain the elimination of foreign countries' unreasonable trade restrictions or subsidies affecting U.S. commerce." We believe that Section 301 covers trade in services and in high technology as well as goods.

Numerous bills were introduced in the last Congress that have increased public awareness of the problem of reciprocal market access. The following examples of barriers to trade, taken from practices in a number of different countries, were included in the introductory remarks of Senator Heinz when introducing one of those bills. The examples of foreign barriers include:

- Restrictive standards and/or inspection requirements on goods like cosmetics, food additives, autos, tobacco, medical supplies;
- Refusal to accept U.S. certifications on the safety of pharmaceutical exports;

- Emissions testing -- or other testing -- of each imported auto -- or other product -- rather than testing a sample;
- Prohibitions or restrictions on U.S. entry into key service fields such as banking, financial services, and insurance.
- Linking market access to a requirement to build production facilities in the country;
- Requiring such production facilities to maintain a specified level of exports;
- "Unexpected" or unannounced delays in unloading freight, including perishable products;
- Limitations on the showing of U.S. films;
- Discriminatory airport-user charges or less advantageous airport locations for foreign airlines;
- Exclusion from airline travel agent reservation systems;
- Licensing requirements; and
- Local content rules.

We note the additional views of Senator Heinz on the amended bill reported by the Finance Committee last June: "In truth, as Senator Long pointed out when the committee considered the bill, it is no longer a real reciprocity bill since the 'substantially equivalent competitive opportunities' standard in Senator Danforth's original S. 2094 has been removed from the retaliatory portion of the bill, through it remains as an objective of the bill...

"Elsewhere, however, the weakening compromises that have been made are apparent, beginning with the more limited retaliatory authority...

Continuing to quote Senator Heinz, "Both our original bills opted for the clear implication that when a barrier is found, the Executive ought to do something about it...

"The bill as reported, however, weakens the implication that action is expected by removing any effective link between the study of barriers and subsequent action by the President. I suspect this will mean the continuation of the present record of virtually no self-initiations by the government in section 301 cases and a reliance instead on the petition process."

Last year at the insistence of the Administration, the original Senate bill was watered down so much that the final product, to quote Senator Long was: "worse than meaningless." As he pointed out: "There is no way that mere negotiation can get us out of the current unfavorable trend in world trade. If we are to be effective, we must have something to withhold and then negotiate about. Currently, we allow ourselves to withhold nothing...

"In fact, the bill is mere window-dressing for additional negotiating authority that will give away more of America's substance than could have been given away without the bill... Even worse, this bill serves as a vehicle for future concessions that we cannot afford."

We agree also with Senator Baucus' view that "the bill deals with symptoms, rather than the disease. The roots of our trade problem are here at home. If we don't address these domestic problems, our lack of competitiveness, and hence our trade problems, will persist, no matter how open markets may be."

S. 144 in our view, unfortunately, fails to create a mandate for action and enforcement. For example, even with this bill, Section 301 will continue its track record of virtually no self-initiations by the government and a reliance instead on the petition process. We note that this latest version of the bill has unfortunately eliminated an earlier requirement that the Office of the United States Trade Representative include in annual reports to the Committees on Ways and Means and Finance, information on any action being taken with respect to the actions which have been identified and analyzed under Section 301 or international negotiations or consultations. We question why that mild reporting requirement was deleted from the bill.

We also note that the bill reported by the Finance Committee last year required the Department of Commerce to submit a report within one year analyzing factors affecting the competitiveness of U.S.high technology industries. These factors would include those not dealt with in STR's report. However, S. 144 fails to include this requirement.

Mr. Chairman, we also oppose Section 8 of S. 144 which would grant the President for five years the authority to reduce or eliminate existing U.S. tariffs on six high technology items relating to computers and semi-conductors. We are pleased that the latest version of the bill eliminates parts of automatic data processing machines (and units thereof) from the list. However, we believe the remaining six items contained in this proposal will encourage U.S. companies to move abroad to countries protected by a variety of tariff and non-tariff barriers, while the U.S. will have unilaterally reduced its tariffs. Unless such Presidential discretion is removed from the bill, the result will be the U.S. export of highly skilled jobs.

In addition, S. 144 contains a provision that would further encourage U.S. direct investment abroad. This is proposed at a time when the United States is suffering from a severely weakened industrial base. In these troubled times, we do not believe that investments overseas should be a negotiating priority of our government. The delegates to the AFL-CIO Convention in November 1981 adopted a resolution on International Trade and Investment that included the following statement:

> **"Export promotion should be a government priority, carefully targeted to accomplish specific goals. It should not include capital, technology and price-sensitive commodities."**

The bill also seeks to encourage further flows of foreign investment into the United States. In this regard, the convention delegates called instead for specific restrictions on foreign investment capital in the United States:

> **"To regulate the immense flows of international investment capital, the U.S. Congress should establish a reporting mechanism that would require all potential foreign investors, or those who would take over an American firm or bank to provide the government with at least 60 days advance notice. The government should be authorized to withhold authorization of such investment or take-over in the national interest. Particular scrutiny should be given to take-overs or investments in energy sources, minerals, and other national resources, farm land, and banks."**

We urge that the Subcommittee adopt such requirements rather than merely encourage the Administration to seek additional flows of foreign investment capital.

Mr. Chairman, the AFL-CIO has repeatedly called upon the Congress to provide sufficient funds necessary to implement U.S. trade laws. Just last year, we testified before this Subcommittee in opposition to proposals cutting back on the hiring of import specialists to assure that the imports which come into the United States are properly monitored. Directions to "monitor" imports become unrealistic when there are not enough import specialists to carry out inspections. Requirements to establish import injury by identifying the causal connection between imports and the job loss become unfair and unrealistic if the imports are not adequately monitored.

We are pleased that this legislation seeks to secure more information on foreign trade barriers for the American public. Such procedural requirements are an excellent idea, but cannot be implemented unless adequate funding is provided to assure that the directions of the Congress to the Executive Branch can be carried out. Otherwise, the responsibility — which under the bill is given to the Office of STR — will effectively be left in the hands of foreign interests and the traders, regardless of the impact on jobs and production in each congressional district. In addition, the annual STR study of foreign barriers provided in the bill is not linked to any subsequent action by the President.

In summary, the introductory remarks of Senator Danforth when introducing S. 144 acknowledged that: " the idea is to close the credibility gap created when we consistently refuse to take protectionist action in spite of the widespread perception that we are the only country practicing what everyone else preaches; namely free trade." Therefore, it is obvious that once again, the Administration has successfully resisted any semblance of a mandate from the Congress that the government self-initiate Section 301 cases.

We note that the Administration has no such reciprocity standard in its trade legislative proposals. For example, the Caribbean Basin Initiative is not in keeping with current U.S. obligations under the GATT. Yet the Administration is quite willing to ask for a GATT waiver to set up one-way trade -- funnelling imports from the world through the Caribbean countries into the U.S. market. This amounts to discrimination against U.S. industries and workers -- not reciprocity even in "principle." The AFL-CIO continues to oppose such action.

The fact is, Mr. Chairman, the United States is suffering from rising imports in a wide variety of industrial products, while the economy is moving downward. This costs jobs, production and America's future development. Unfair trade arrangements encourage the expansion of production abroad for the U.S. and foreign markets, decimate small businesses unfairly and restrict U.S. exports.

In order to have reciprocal access for U.S. exports, trade policy must encourage efficient U.S. production of goods and services. Section 201 of the Trade Act provides that the International Trade Commission can recommend relief for an injured U.S. industry. The President has the power to seek relief and to act on recommendations of the ITC. However, to our knowledge the Administration has failed to act on behalf of any U.S. industry in a Section 201 case, with the exception of clothes pins, ferrochrome and porcelain cookware. It remains to be seen whether the President will follow the recommendation of the International Trade Commission for tariff relief in the Harley-Davidson motorcycle case.

Mr. Chairman, as the Subcommittee knows, many countries are not members of the GATT. Yet, U.S. trade policy continues unilaterally to abide by GATT principles for these countries, and to allow them privileged entry into the U.S. market. The continued effect of discriminatory trade standards applied by GATT and non-GATT members alike against U.S. interests at home, creates a continued erosion of U.S. industries. For example, U.S. firms continue to move to other countries and then export to the U.S. market because other countries require production in their markets and exports from their markets. U.S. trade policy encourages this erosion.

Often there is not even public discussion of such barriers because they are not widely reported. For example, we commented last year that Mexico, which is not a GATT member, has established new policies and practices that will curb U.S. exports of computers and data processing equipment. This is a high technology industry already threatened by U.S. failure to insist on U.S. rights to reciprocity with Japan and other GATT members. Further compounding this problem, Mexico now requires import licenses for computers and parts. In addition, Mexico has doubled its tariffs; imposed quotas; required production, research and development in Mexico, and taken other steps to assure that Mexico will be a self-sufficent computer exporter within five years. The U.S. Government was aware of these facts, but did not act. Now that Mexico has a debt crisis virtually all exports from the U.S. to Mexico have been curbed by the Mexican government.

Mr. Chairman, the AFL-CIO believes that this nation cannot afford a U.S. trade policy that substitutes a cosmetic gesture for effective programs and action to make reciprocity a reality. We cannot afford a trade policy that is opposed to any requirement for "bilateral, sectoral or product-by-product reciprocity." We believe vigorous enforcement of existing law and change in U.S. trade policy are long overdue.

Senator **Danforth**. Thank you.

Reading the morning paper today—I think it was on the editorial page of the Washington Post—I saw the editorial noted that in partisan politics right now it seems as though the President is trying to hold the line on behalf of free trade, while some of the candidates in the other party are voicing very protectionist positions.

Would you say that the AFL-CIO has adopted what would be called a "protectionist position" on international trade?

Mr. **Koplan**. Mr. Chairman, I find labels troublesome. I think the last time we appeared and testified a similar question was raised.

The AFL-CIO is of the opinion that it is time for action, and not actions limited to negotiations—global negotiations.

We have testified before your subcommittee in the past on the auto import situation. I think you invited us in maybe two or three times in 1981. And as a result of those discussions and the situation there—and much has been said this morning about "domestic content"—in December 1981 the domestic content bill was introduced in the House, and of course passed last year.

We feel very strongly that positive steps need to be taken to enforce existing law and to change our policy from one where the administration is asking us to provide them with basically a blank check for negotiating authority, and trust them that it will work out.

We think that there is a need for more congressional oversight in this area and for more accountability on the part of the administration, and a need for action.

Senator **Danforth**. The effort in this bill—in the minds of people who are committed to free trade—should be to open up foreign markets that are otherwise closed to U.S. exports. And that is the whole thrust of the "action" in this bill.

Would it be fair to say that action, from your point of view, is not directed so much to opening up foreign markets but rather to closing down our markets?

Mr. **Koplan**. I don't think we have ever recommended that our markets be closed; although we do recommend that we have access to foreign markets.

There are all kinds of barriers—and they are listed in my testimony—that go beyond tariff barriers, for example, nontariff barriers, that exist.

At one point in the first version of your bill there was a requirement that the President submit a plan for action to the Congress, to the appropriate committees, based on the results of the study that the STR made. That language doesn't appear in the legislation now. You do have language that provides that he may propose legislation to improve existing law. Certainly we think he has that authority to propose any legislation to improve existing trade policy now.

I wonder if Ms. Jager would like to add anything to my comments?

Ms. **Jager**. I have the same difficulty that Mr. Koplan has expressed in terms of the general thrust of the dialog today, as if there were a realistic choice between free trade and protectionism in the world.

I think we are on record as supporting access to foreign markets. We are on record in support of the fact that we think it would be a better world if it consisted of freer trade. What we are saying is that that's not the world we're living in; and since that's not the world we are living in, we don't think it's necessarily productive to pass new legislation on which we see no signs that the administration will act.

Every step that is provided by law by the Congress is treated as a protectionist thrust that would close our markets. We are living in a world where daily other countries are closing their markets, and they are retaliating in advance.

Our Government seems to assume that any action, even if it's in accordance with the GATT, that would allow for a step that would in any way deter an import into the United States is a protectionist action that is going to start Smoot-Hawley, and the end of the world, and World War III, and several other dire consequences. We don't believe that.

Senator DANFORTH. Well, it's one thing to use offsetting steps under section 301 to attempt to provide disincentives to other countries for erecting barriers to U.S. exports; it's quite another thing just to say, "Well, we want to set up barriers of our own."

Now, the domestic content bill, which I guess is the most well-known piece of trade legislation around today, would be clearly a protectionist bill, would it not? I mean, there is no doubt at all. There is no argument that is designed as leverage to open up foreign markets; rather it is just an admission of defeat, that we can't possibly sell cars at home, much less abroad, in sufficient quantity unless we have very protectionist legislation. Isn't that correct?

Ms. JAGER. I must say, Mr. Chairman, that I know that most of the people who talk about this problem, outside of those of us who support it, tend to view it as protectionist legislation.

We view it, really, as an illustration of a mechanism that would not in fact result in protectionism, but could in fact result in the very thing that you are talking about.

If in fact the United States wants to abide by the GATT, and there are over 30 nations of the world which have content legislation, and we assume that's it's all right for them to have it and we will just talk to them about it, but the United States will do nothing——

Those countries, incidentally, also have other practices along with their content legislation. So we are going to sit here and say, well, gee whiz, we can't have anything like that, because that would be against the obligations of the GATT. As I say, there is a dispute about that; I think the suggestion is that GATT is a place where these issues are supposed to be discussed.

If in fact it does turn out to be a violation of the GATT, then let's get all the countries who are in violation and see what's going to be done about it.

What's happening now is that we are losing industry after industry after industry, because we assume that the United States can do nothing except to talk, and other nations are free to——

Senator DANFORTH. No, I don't assume that we can do nothing but talk, and the purpose of the reciprocity bill is to provide for not only a clear identification of the barriers that exist but a plan of action for removal of those barriers.

But I think that to reject the reciprocity bill and to endorse a domestic content bill is to say that we really are not interested so much in removing barriers, or in the practices of other countries, but we instead are going to practice protectionism simply from the standpoint of protecting industries in this country which we don't think would be competitive even within the borders of the United States.

And, I think, if we were to do that, we may or may not help specific industries, such as the automobile industry; but it is clear that we will be hurting—clear to me, anyhow—that we will be hurting other industries which are dependent on exports.

I wonder, is there any kind of debate within the AFL-CIO about the value of protectionism? Or, is it just assumed by all of the member unions that this is the way to go? It would seem to me that there would have to be a variety of industries, a variety of employees in your membership, who would be very much hurt if we were to get into a full-fledged trade war.

Ms. JAGER. Mr. Chairman, I think it's clear to everyone that the AFL-CIO, like most institutions in the United States, contains a great many varied points of view.

I think it's also fair to say that, at this point in history, there is very little debate on the question of free trade and protectionism, because they don't see any free trade.

We don't consider it free trade to continue to encourage companies to go abroad and produce there, in order to serve this market.

If I can give you an exmaple, one of the issues that constantly is being raised is that even the companies that are exporting now are companies that are preparing to import tomorrow. And, consequently, what we fear so much, in this kind of very broad authority, is the continuance of the kinds of negotiations that assume that we will do nothing about the barriers abroad except to offer a bilateral solution.

We are very practical people, and we live in a very real world. I would like to just bring this down to the level of an example: There is a lot of talk today about "Atari Democrats." There is a recent press clipping that says the President is the first "Atari Republican." I don't regard this as a partisan issue. I regard this as a serious national issue.

But, I think the word "Atari" is important, because the president of Atari Home Computer Division has recently announced that in 1982 there was no significant production of Atari computers or parts offshore. There will be a significant percentage manufactured offshore in 1983. That means that the United States is now about to lose still another advanced technological industry while we talk about free trade.

All that we are saying is that, in the real world in which we live, however much we would like to have it, there is not free trade. And we don't think that the preaching of "free trade" and the castigation of everyone who wants to take any step at all in the interests of survival is an isolationist or a protectionist.

We are extremely internationally minded; I think that's true of almost every labor person with whom I have any contact. Yes, we want to export; but I think that anyone who looks at the data can see that we've lost more exports in the last year than we can afford to lose. And imports continue to rise. And all that is said is that the President is going to get more authority.

The President hasn't even acted on the Houdaille case, in which there isn't even a smidgeon of protectionism. And, yet, if any action is proposed, it's immediately called "a protectionist action."

I think this is an unfortunate dialog, Mr. Chairman. I think it is very unfortunate for the Nation. We need to do something. And no other country who negotiates with us is going to believe that we will ever do anything; and the companies will simply continue to move abroad, which is one reason we are so concerned about the provisions to authorize more authority to negotiate rights for more investment abroad. I find that quite terrifying.

Senator **Danforth**. Steve?

Mr. **Koplan**. I was just going to add, Mr. Chairman, when you introduced the bill, you made the comment, in your introductory remarks, that the idea is to close the credibility gap created when we consistently refuse to take protectionist action, in spite of the widespread perception that we are the only country practicing what everyone else preaches—namely, free trade.

I think that is a fact, that we do practice what other people preach but do not follow, and the stated hope has been that "if we take the lead, others will follow." Well, that has not happened. I assume that's the reason or the purpose behind introducing legislation like this, but other countries have not followed our lead, and we don't find an additional negotiating stimulus as the way to deal with this problem.

Senator **Dole**. I'm sorry I missed your statement. We had another committee meeting and I had to make a quorum.

As I look back on the domestic-content legislation, I think it got more support, of course, as unemployment increased and everybody was looking for a painless solution, searching around for some way to get people back to work. Eventually, you had 220 cosponsors.

Now, maybe it is not any breakthrough, but the fact is that the unemployment figures are down this morning. I hope the AFL–CIO has praised that as an indication that we are coming out of the recession. But, maybe, if they continue to come down, as we hope they will, there will be less pressure for domestic-content legislation. Maybe not. Maybe it is something that sort of has a life of its own.

But, I would be interested in knowing who these 30 countries are, who also have domestic-content legislation. Are they industrial nations, or are they developing countries, that have domestic-content legislation?

Ms. **Jager**. They are mostly developing countries, Senator Dole. However, as a matter of practical fact, in terms of policy and practices, virtually every auto-producing country has enough policies and practices in effect to make sure that they make automobiles and parts within their country, so that domestic content is really a very mild proposal in view of the world in which we live.

I don't regard it as protectionist legislation; it doesn't stop imports, it doesn't close our markets. It merely sets an objective for companies who sell here to try to make sure that we retain an industrial base.

Senator **Dole**. I think it's, maybe, job protection; I don't know about all the other trade labels.

From the standpoint of putting the pressure on Congress to do something else, even though you may not agree with domestic content legislation, it certainly has heightened the awareness of the problem. So you have made a contribution. I am not sure you are going to make it to the goal line.

Are you going to push that in the House pretty hard this year?

Mr. **Koplan**. Yes, we hope to continue to make a contribution in that regard, Mr. Chairman.

Let me say, if I could, very briefly—we did submit, when we testified on content, a list of those countries that have barriers like that. I would be happy to include that in the hearing record as an additional submission.

[The information follows:]

APPENDIX I—SURVEY OF AUTOMOTIVE TRADE RESTRICTIONS MAINTAINED BY SELECTED NATIONS

Compiled by the Office of International Sectoral Policy, U.S. Department of Commerce from information supplied by U.S. Embassies, Commerce country analysts, and industry sources. The accuracy of the information received has not been verified.

Summary of Foreign Automobile Trade Restrictions 1/

Country	Local Content Requirements	Import Restrictions 2/	Export Requirements	Operations Japanese	Operations United States
Algeria	No	Yes	No		
Argentina	Yes	Yes	Yes	Yes	Yes
Australia	Yes	Yes	No	Yes	Yes
Austria	No	Yes	No		Yes
Belgium	No	Yes	No		Yes
Bolivia	Yes	Yes	No		
Brasil	Yes	Yes	Yes	Yes	Yes
Chile	Yes	Yes	Yes		Yes
Colombia	Yes	Yes	Yes		Yes
Denmark	No	No	No		
Ecuador	No	Yes	No		Yes
Egypt	Yes	Yes	No		
France	No	Yes	No		
Germany	No	No	No		Yes
Ghana	No	Yes	No		Yes
Greece	Yes	Yes	No	Yes	
India	Yes	Yes	No		
Indonesia	Yes	Yes	No	Yes	Yes
Israel	No	Yes	No		Yes
Italy	No	Yes	No		
Japan	No	No	No		Yes
Kenya	No	Yes	Yes	Yes	Yes
Kuwait	No	No	No		
Malaysia	Yes	Yes	NA		
Mexico	Yes	Yes	Yes	Yes	Yes
Morocco	Yes	Yes	No		Yes
Netherlands	No	No	No		
New Zealand	No	Yes	No	Yes	Yes
Nigeria	Yes	Yes	No		
Norway	No	Yes	No		
Pakistan	Yes	Yes	Yes		Yes
Peru	Yes	Yes	No	Yes	Yes
Philippines	Yes	Yes	Yes	Yes	Yes
Protugal	Yes	Yes	No	Yes	Yes
Saudi Arabia	No	No	No		
Singapore	No	Yes	No	Yes	Yes
South Africa	Yes	Yes	No	Yes	Yes
South Korea	Yes	Yes	Yes		
Spain	Yes	Yes	No		
Sweden	No	No	No		
Switzerland	No	No	No		
Taiwan	Yes	Yes	No		
Tanzania	No	Yes	No		
Thailand	Yes	Yes	No	Yes	Yes
Turkey	Yes	Yes	Yes		Yes
United Kingdom	No	Yes	No		Yes
Uruguay	Yes	Yes	Yes		Yes
Venezuela	Yes	Yes	Yes	Yes	Yes
Yugoslavia	Yes	Yes	No		

1/ The measures cited in this chart are for new cars. Trade restrictions on used cars are not reflected.

2/ Import restrictions apply to non-tariff measures maintained by a country which deal solely with imports. Tax measures which apply to both imports and domestically produced products are not included.

Industrialized Countries Surveyed

Australia: A local content requirement of 85 percent is in effect. However, under the Export Facilitation Scheme, due to commence on March 1, 1982, Australian car manufacturers would be allowed to credit exports against local content requirements. These credits will increase from 5 percent in 1982 to 6.25 percent in 1983 and 7.5 percent in 1984 and can be used to import components duty free. The effect would be to reduce the local content requirement to 75 percent by 1984. Australia maintains a quota limiting imports of assembled vehicles to 20 percent of the existing market. There are import tariffs of 35-57.2 percent depending on stage of assembly. No export incentives exist. General Motors, Ford, Chrysler, Toyota and Nissan produce vehicles in Australia.

Austria: No local content regulations or export requirements are in effect in Austria. The automobile import duty is 20 percent. The value added tax (VAT) on automobiles is 30 percent. Steyr-Daimler-Puch (S-D-P) produces mopeds, trucks, busses and tractors. General Motors will shortly begin production of automobile engines and transmissions. S-D-P and BMW will soon produce diesel automobile engines.

Belgium: No local content regulations or export requirements are maintained by Belgium. There are reportedly quantitative restrictions on imports from Japan, Taiwan, South Korea, Indochina, and Eastern European countries. The import tariff on automobiles is the EC's 10.9 percent common external tariff. A 25 percent value added tax is levied on all automobiles sold in Belgium. Ford, GM, British Leyland, Peugeot-Citroen, and Volvo assemble cars and trucks, while Renault and Volkswagen assemble only automobiles in Belgium.

Canada: U.S.-Canadian auto trade is conducted under the terms of the Automotive Parts Trade Agreement (APTA). This trade is duty free. Canada has a 14.2 percent import duty on imports of non-U.S. cars and trucks and has safety and emission requirements similar to the United States. There are no local content requirements or quantitative restrictions. Chrysler, GM, Ford, AMC and Volvo have manufacturing facilities in Canada.

Denmark: There are no restrictions on automobile imports except the 10.9 percent EC common external tariff. A 20.25 percent VAT is levied.

France: There are no local content regulations or export requirements. Imports of Japanese automobiles have never risen to over 3 percent of the market and the French government has announced that it does not want them to exceed this level. The EC's 10.9 percent automobile tariff applies. There is a 33.3 percent VAT. General Motors and Ford produce components in France.

Germany: There are no local content, export requirements, or quantitative limitations. Germany applies the EC's 10.9 percent common external tariff on automobiles and has a 13 percent VAT. Germany maintains rigid safety and emissions standards. In addition, there is a graduated motor vehicle tax based on horsepower. General Motors and Ford have manufacturing/assembly plants.

Italy: No local content regulations or export requirements exist. Italy applies the EC's 10.9 percent common external tariff on automobiles. Italy has formal quantitative restrictions on vehicle imports from certain Far Eastern (1980 allotment from Japan is 2,200 cars) and Eastern European countries. In addition, Italy's strict safety standards make certification of imported automobiles difficult to obtain. The automobile import duty is 10.9 percent. A VAT varying from 18-35 percent depending on engine size is applicable to all automobile sales.

Japan: Japan maintains no local content requirements or quantitative restrictions or import duties on automobiles. There is a 15 or 20 percent commodity tax levied on automobiles depending on engine size and on overall auto dimensions, and an annual automobile tax which also increases by engine size. The mechanical safety and environmental modifications required to comply with Japanese stringent vehicle regulations have discouraged imports. Additional disadvantages to American automobiles include the higher dealer margins and a complicated multi-layered distribution system.

Netherlands: The Dutch vehicle manufacturing industry is relatively small. DAF a Dutch firm, manufactures commercial and military vehicles. Volvo produces passenger cars and there are a number of smaller Dutch bus and trailer manufacturers. The tariff on automobiles is 10.9 percent for imports of automobiles from the U.S. into the EEC. There is an 18 percent value-added tax. Additionally, manufacturers or importers of passenger cars have to pay a special consumption tax of 16 or 17 percent. Imports are not subject to any special import licenses or quantitative restrictions.

New Zealand: There are no specific regulations dictating the amount of local content in automobiles assembled in this country. However, an import licensing system mandates the use of local components. Tariffs for completely built up autos (CBU) are: 55 percent for general tariff; 20 percent for Australia and the U.K.; and 33.3 percent to 55 percent for Canada depending on the level of commonwealth country content. Import tariffs for completely knocked down (CKD) units are: 45 percent general tariff rate; preferential rates of 6.25 percent for Australia and the U.K., and 13.75 percent to 45 percent for Canada depending on the level of Commonwealth country content. Certain Australian CKD autos are duty free and certain CBU autos are subject to a 10 percent duty under terms of the New Zealand Australian Free Trade Associaion. Licenses are required to import CKD cars but are, in effect, obtained automatically by assemblers. Licenses for CBU units are strictly controlled and currently maintained at a level of approximately 4 to 5 percent of the total annual sales of 65,000 to 70,000 units. Ford, General Motors, Chrysler, Toyota, British Leyland, Honda, Mazda, Skoda, Subaru, Datsun, Mitsubishi, and Talbot (Peugeot) have local assembly plants.

Norway: There are no local content regulations or vehicle import restrictions. Automobile import tariffs are 7.6 percent with an additional vehicle tax varying from 68-153 percent of the vehicle value. There is no automobile production in Norway.

Spain: Local content requirement for vehicles assembled in Spain is 55 percent. There are no import quotas. The import tariff for non-EC/EFTA source vehicles is 68 percent with a compensatory import tax of 13 percent. Luxury tax varies between 17.6-35 percent depending on horsepower of vehicle. Fiat, Renault, Citroen, Peugeot, Ford, General Motors have assembly operations in Spain.

Sweden: There are no local content regulations. There is a 9 percent CIF import tariff on passenger cars and a 20.63 percent VAT on the duty paid value. There are apparently nonrestrictive import licenses, as well as stringent safety and emission standards. Swedish producers receive a rebate of all duties paid on imported components incorporated in a car which is exported. Only Saab and Volvo manufacture in Sweden.

Switzerland: Tariffs on passenger vehicles imported into Switzerland from the U.S. range from Swiss Francs 79.62 to 134.50 per 100 kilograms gross. Swiss impose duties on weight rather than on value. Substantially lower tariffs have been accorded to EC and EFTA suppliers. In addition, a turnover tax of 8.4 percent *ad valorem* is levied. No quantitative import restrictions are maintained; however, at time of registration of an imported vehicle in Switzerland, the U.S. made product must conform with the Swiss Regulations on Construction and Equipment of Motor Vehicles, amendments to which became effective on January 1, 1980. The objectives of the amendments are to reduce gradually noise level limits by October 1, 1982 and 1986, respectively. Swiss-made trucks and jeeps are manufactured and assembled at Arbon in the Canton of Thurgau.

United Kingdom: There are no local content regulations or export requirements. The import tariff on automobiles is the EC's common external tariff of 10.9 percent. It has been publicly reported that imports from Japan are voluntarily limited by the Japanese manufacturers to approximately 10 percent of the market. British Leyland, Ford, GM, and Peugeot-Citroen manufacture in the U.K. In addition there are numerous small, specialty firms. Current plans are for British Leyland to manufacture Honda designed automobiles in the near future.

Developing Countries Surveyed

The Andean Pact's Automotive Program

In 1977 the five Andean Pact members (Bolivia, Colombia, Ecuador, Peru, Venezuela) signed an agreement calling for the production of vehicles based on local componentry, with local content eventually reaching 70 percent. According to the Pact's schedule, the program will be in effect by the end of 1983. However, due to disagreements by Pact members as to who would produce certain types of vehicles and, even more importantly, key components such as engines, progress in implementing the program has been slow.

A Common External Tariff is to give protection against non-pact vehicles, 115 percent in the case of passenger cars similar to those to be produced in the Andean region and 155 percent for cars other than those produced there.

The following companies have signed agreements to participate in the program: General Motors, Volkswagen, and Fiat; other companies that are considering participating are: Ford, Renault, Mack Trucks, Nissan, Pegaso, and Volvo. In addition to these general provisions, member countries have the following specific rules:

> Bolivia: There are no vehicle manufacturing or assembly operations in Bolivia.

Colombia: A 33 percent local content regulation is maintained on firms which assemble automobiles from imported components. Imported automobiles are assessed a 150 percent duty, a 35 percent sales tax, a 5 percent export promotion fee, a 1.5 percent export diversification fund tax, and a 1 percent consular invoice fee. There are no quantitative restrictions, but import licenses are used to restrict imports. Renault produces passenger cars. GM produces automobiles, trucks and van chassis. Fiat produces cars, trucks and buses.

Ecuador: There are presently no local content restrictions or export requirements in Ecuador. Import duties on automobiles range from 100 percent to 190 percent depending on price; on trucks and vans duties are 80 percent or 100 percent depending on type and capacity; and on four wheel drive vehicles they are 60 percent or 70 percent depending on price. In addition, an import surcharge of 30 percent on the c.i.f. value is applied to all motor vehicle imports except trucks. On all items, importation requirements call for a 1 percent service charge and a 50 percent prior deposit, both on the c.i.f. value. Importers are required to prepay 80 percent of the import duties before the import license is received. This license is issued by the Ministry of Industries, Commerce and Integration. In addition to the overall quota, each automotive dealer or distributor is assigned an individual quota. This is computed on the basis of past imports, and therefore, it varies for each distributor/dealer. Newly established dealers are assigned a quota of $40,000 per each six months.

Ecuador has begun to implement its ANCOM (Andean Common Market) assigned rights to manufacture: (1) light passenger cars and engines of 1050-1500 cc. motor size, and (2) light trucks and transmissions of 3.0-4.6 metric tons capacity. The Ecuadorean Government and Volkswagen signed a contract in December 1978 for the production of a passenger car. General Motors is carrying out feasibility studies for the production of light trucks.

Peru: Local content regulations require 10-35 percent local content depending on vehicle type. Although built up vehicle imports have been prohibited to date, reports are that import licenses will be obtainable in 1980. Import tariffs are 40 percent on trucks and 155 percent on automobiles. There is a 14.4 percent manufacturers tax. Exports are encouraged by rebating the import duties paid on imported components in the exported vehicle. Chrysler, Volkswagen, and Nissan assemble cars and trucks. Toyota assembles cars and Volvo assembles trucks.

Venezuela: Local content regulations call for annual increases from 48 percent currently to 90 percent in 1985. Imports are restricted to vehicle types produced locally. The tariff on imports is 120 percent on Venezuelan Government reference price. Export requirements are based on a percent of the value of national automobile production and in some instances they are quantitative requirements written into the assembler's contract. In addition to three local firms, Renault and Volkswagen assemble cars; Fiat, GM, and Ford assemble cars and trucks; Mack and International assemble trucks; and AMC and Toyota assemble jeeps.

According to press reports, the Venezuelan Economic Cabinet approved a new automobile import policy on April 24, 1980. Now prohibited is the importation of 8-cylinder models (except by the government). All other models not produced in the country could be imported without license upon payment of ad valorem duty of 120 percent and a specific duty of 100 Bolivars per kilo. Models similar to those produced in Venezuela would pay an ad valorem duty of 120 percent only. Vans and 9-11 passenger vehicles would pay 135 percent ad valorem and 100 Bolivars per kilogram specific duties. Effective date of this new measure will presumably depend on publication of corresponding decree in the official gazette with new list of reference prices for 1980. Last year this took place on June 1st.

Other Developing Countries

Algeria: There are no automobile manufacturing assembly operations in Algeria. Unspecified quantitative restrictions on automobiles are in effect. Import duties on automobiles range from 40-50 percent.

Argentina: Local content regulations exist for all vehicles as follows: passenger - 93 percent in 1980, reduced to 88 percent in 1982; commercial - from 93-90 percent in 1980, reduced to 75-88 percent in 1982. Import tariffs on vehicles are 95 percent on cars (declining to 55 percent in 1982) and 65 percent on trucks (declining to 45 percent in 1982). Minimum import prices are $4 per cubic centimeter engine displacement plus 15 percent freight on cars. Export requirements apply only to intercompany parts shipments. Under this requirement exports must be 3 times the import level. Ford, Volkswagen, Fiat-Peugeot, Mercedes-Benz, and Saab have manufacturing facilities in Argentina.

Brazil: Local content regulations are in effect but are now individually negotiated with each firm with factors such as the individual firms balance of payments being taken into account.

Export incentives in the form of reduced import tariffs on parts are granted (under GATT these are being phased out). Imports of automobiles are currently embargoed. Normally, import tariffs on passenger cars are from 185 percent to 205 percent. In addition there is a system of minimum import values based on the car's weight. Passenger cars are produced in Brazil by Ford, GM, Volkswagen, Toyota, Pima and Fiat. Trucks are manufactured by Ford, Chrysler, GM, Mercedes, Fiat. Saab, Volvo, and Toyota.

Chile: Local content regulations requiring 30 percent of assembled cost for automobile manufacturers are in force. Exports are not required unless local content is less than 30 percent. In this case the local assemblers must export sufficient products to reach 30 percent of local production costs. Import tariffs on automobiles range from 10-80 percent depending on engine displacement. The 80 percent tariff will be reduced each year to reach a final rate of 10 percent in 1986. There is a 100 percent consumption tax if an automobile's CIF value plus duty, plus a 20 percent VAT exceeds $12,000. This consumption tax only applies to the amount over $12,000. There are no quantitative restrictions. GM assembles automobiles and trucks. Citroen, Fiat and Peugeot-Renault assemble automobiles.

Egypt: Local content regulations vary by contract with each assembler. Fiat has a joint venture for automobiles with 30 percent to 40 percent local content required and AMC jeeps are assembled with a 15-20 percent local content. There are no export requirements. Import duties vary from 85 percent to 200 percent depending on engine size and number of cylinders. Individuals are allowed to import only one car every two years and the importation of right hand drive cars is forbidden. Payment of import duties must be made in hard currency.

Ghana: There are no local content regulations or export requirements in Ghana. A purchase tax which varies from 5 percent to 100 percent based on the car's value encourages local production. Commercial vehicles assembled in Ghana do not pay this tax. Under the vehicle standardization policy in effect since October 3, 1979, only vehicles - passenger cars, pick-ups, cross country vehicles, and buses - manufactured by approved manufacturers may be imported. The list includes Peugeot, Datsun, Volkswagen, Renault, Mazda, and Mack Truck. Cars for diplomats and Ghanaian officials are exempt from this requirement. Renault and Toyo Kogyo assemble cars. Nissan, Toyota, and Vauxhall assemble cars and buses. British Leyland, Ford, and Mercedes-Benz assemble buses and trucks. Chrysler, Deutz, Hino, M.A.N., and Mack assemble trucks. Neoplan assembles buses. Import tariffs range from 15 to 35 percent.

Greece: The value added component requirement imposed on local motor vehicle assembly is a minimum of 25 percent without mandatory upward escalation. Tariffs on imports from non-EEC countries range from 10 to 20.7 percent. In November 1979, a voluntary system designed to restrain imports was adopted providing for a reduction of 20 percent in car imports. Bus imports require an import license. The issuance of licenses is, at times, delayed or withheld. A pre-import cash deposit of 56 percent for buses and 28 percent for passenger automobiles is also required. The deposits are retained by the government for two months.

India: Local content regulations exist only for the domestic Indian automobile producers. There is no investment by foreign automobile manufacturers. Exports are encouraged by cash subsidies and import replenishment licenses. Import tariffs on other vehicles vary from 100-140 percent depending on type and axle weight. Import licenses are generally not issued for passenger cars and those for commercial vehicles are issued on a limited basis.

Indonesia: Progressively stringent local content regulations are being instituted in the motor vehicle industry although lags in component manufacture are slowing implementation. While the Government hoped to achieve full local manufacture of components for the most popular types of passenger and light commercial vehicles by 1984, it has extended this deadline until an unspecified date for components not yet manufactured in Indonesia or not manufactured in sufficient quantity. Presently all passenger vehicles, and all commercial vehicles imported into Java and Sumatra, are to be imported completely knocked-down. Import tariffs on built-up passenger vehicles range from 30 percent plus a 10 percent sales tax on jeeps to 200 percent plus a 20 percent sales tax on passenger cars. There are no export requirements or quantitative restrictions. Local assembly plants produce the following makes of passenger cars: Suzuki, Datsun, Hino, Landrover, Holden, Isuzu, Volkswagen, Mercedes, Mitsubishi, Renault, Peugeot, Alfa Romeo, BMW, Dodge, Fiat, Tata, Steyr, Citroen, Berliet, Moskvitch, Subaru, Volvo, Ford, Toyota, Honda, Chevrolet, Bedford, Morina, Daihatsu, and Mercedes-Deutz.

Israel: There are no local content or export requirements maintained by Israel. Import duties are from 40 percent plus 2.50 shekels per kilogram for automobiles with engines 1,800 cc and less and 52 percent plus 1.25 shekels per kilogram for cars with engines 1,801 cc and larger. In addition, there is a purchase tax based on engine size which ranges from 85 percent to 150 percent plus a 5-7 percent import price uplift. These are assessed on a cascade basis. There are quantitative requirements attached to import licenses which are only granted to approved importers. Three Israeli firms assemble Ford cars: Ford, Dodge, Reo and Mack Trucks and AMC Jeeps. One local firm produces its own brand of trucks and passenger cars.

Kenya: No local content regulations exist but components manufactured locally may not be imported. Commercial and certain other vehicles are permitted to be imported only completely knocked-down. There are no export requirements. An import license accompanied by a 100 percent refundable prior import deposit is required. Import duties (CIF) on assembled passenger cars (other than public service-type vehicles) range from 40 percent for cars with an engine capacity not exceeding 1,200 cc, 75 percent for cars with a 1,751-2,000 cc engine capacity, to 150 percent with an engine capacity exceeding 2,250 cc. The duty on non-public service passenger cars, unassembled, for assembly into complete vehicles by an authorized assembler is 25 percent. Importers have been directed to seek 90-180 days credit overseas. The four authorized assemblers are Leyland Kenya Limited, General Motors Limited, Associated Vehicle Assemblers Limited and Fiat Kenya Limited. GM assembles Isuzu and Bedford trucks, British Leyland assembles trucks, Landrovers, Volkswagen microbuses and Mitsubishi light buses. Associated Vehicles assembles Datsun cars and buses, Peugeot trucks, Toyota trucks, Ford trucks, and Volvo trucks.

Import protection is accorded to local producers of the following automotive components: sealers, adhesives, batteries, tires, tubes, paints, flat glass, canvas, soft trim, upholstery, insulation, radiators, exhaust systems, leaf springs, spare wheel carriers, seat frames, wiring harnesses and brake linings.

Kuwait: There are no general restrictions on vehicle imports. A 4 percent *ad valorem* import tariff is in effect.

Malaysia: Under the ASEAN Automotive Federation (AAF) scheme for complementary ASEAN production, Malaysia will produce timing chains for cars; and spokes, nipples, and roller chains for motorcycles. Trade preferences by other ASEAN members would be granted these parts. Probably no further accreditation of additional capacity for the same product would be allowed until the ASEAN Committee on Industry, Minerals, and Energy determined that the market had expanded sufficiently to warrant further accreditation of similar projects.

Mexico: Local content regulations requiring 70 percent for passenger cars and 80 percent for trucks exist with a planned 5 percentage point increase of both in 1981. Imports of components are required to be offset by exports. Vehicle import duties range from 35 to 100 percent *ad valorem*. Vehicle imports are not allowed with the exception of a special customs zone near the U.S. border. Exceptions are usually only made if there is a shortfall in domestic supply. Chrysler, Volkswagen, Ford, GM and Nissan manufacture/assemble cars and trucks. American Motors produces cars and jeeps. Renault produces cars.

Morocco: Local content regulations requiring 40-50 percent levels are in effect. All vehicle imports are restricted. All assembly operations are in part or totally Moroccan-owned. Through this system, Fiat, Opel, Simca, and Renault automobiles are assembled in Morocco. Berliet, Volvo, Bedford, Ford, DAF, Landrover, and Jeep utility, and industrial vehicles are assembled.

Nigeria: A 30 percent local content regulation is imposed after three years of assembly. Vehicle imports are restricted by import licenses and passenger vehicles with engines over 2,500 cc are prohibited. Passenger vehicles with smaller engines face duties of 50 to 250 percent. Volkswagen manufactures/assembles cars and minibuses. Peugeot manufactures/assembles cars. British Leyland manufactures/assembles trucks and Landrovers. Steyr manufactures/assembles trucks. Mercedes and Fiat will shortly begin to manufacture trucks and Nissan will start manufacturing automobiles.

Pakistan: There are no local content regulations as such but current use of locally produced components is encouraged by regulation and is reported to range from 26-60 percent of value depending on vehicle type. Projected use of local products is reported to be about 90 percent by 1985. Exports and imports are controlled. Commercial vehicle imports are prohibited. Imports of built up passenger vehicles are dutiable (75-350 percent *ad valorem*) depending on engine size. A state-owned corporation has a monopoly over the automobile industry. It has assembly arrangements with AMC (jeeps), Chrysler (trucks), GM (Isuzu trucks) Vauxhall (trucks and buses), Ford (minibuses), Suzuki (vans and pickups), Nissan (trucks), Toyo Kogyo (buses), Sumitomo (trucks), and Hino (trucks). This monology (PACO) controls the import of both completely knocked down and completely built up vehicles. Completely built up imports are limited to those being brought in by returning expatriate Pakistanis (6 months or more continuous stay overseas).

Philippines: The current local content regulations requirement is 62.5 percent. The import tariff rate varies from 30-72 percent for completely knocked down vehicles to 100 percent for assembled vehicles. There are three local automobile companies. One assembles Mitsubishi products and one assembles Volkswagens. The other assembles its own vehicles (the Tamaraw utility vehicle, a mini crusier military vehicle and various trucks). Ford has a body stamping plant and automobile assembly facilities. GM assembles cars and trucks, and manufactures transmissions.

Portugal: Local content regulations for vehicles assembled in Portugal are 22 percent in 1980 declining to zero in 1985. Current import quotas for completely knocked down and completely built up vehicles are scheduled to end in January 1985. Import duties for non-EC/EFTA source vehicles is approximately 4.5 U.S. cents per kilogram. Import quotas are scheduled to be phased out by 1985. GM, Ford, Renault, Citroen, Alfa Romeo, British Leyland, Peugeot, Talbot, Audi, BMW, Mercedes, Volkswagen, Toyota, Nissan, Mazda, Subaru, Honda, and Daihatsu have assembly operations in Portugal.

Saudi Arabia: There are no local content regulations or import restrictions. The import tariff is 3 percent of CIF value. Mercedes assembles trucks. A Saudi firm assembles buses using American-made chassis. The Saudi Arabian Government provides a subsidy to the National Company for Car Manufacturing, located in Jidda, in the form of an interest-free loan.

Singapore: There are no local content regulations or quantitive restrictions on vehicle imports. Import tariffs are 45 percent. There is a 150 percent additional registration fee, a $1,000 base registration fee for private and rental cars ($5,000 on company cars), and scaled road taxes. Mercedes, Ford, British Leyland and Volvo produce cars. Nissan produces vans.

South Africa: Passenger cars must contain 66 percent by weight local content. Starting in 1980, the local content regulations have been extended to light goods vehicles (approximately up to 2,800 pounds). The 1980 and 1981 requirements for these are 50 percent by weight. By 1982 these too must meet the requirement of 66 percent. Import licenses are required, but are granted to meet the full and reasonable requirements of components and subassemblies for passenger and light goods vehicles covered by a currently valid manufacturing program approved by the Minister of Economics. There are no export requirements. Fully manufactured cars may be imported without a license, but the duty is 100 percent. Excise tax for cars with less than 66 percent local content is 95 percent. For those with 66 percent local content, the excise duty per Rand value is a maximum of 13 Rand cents. There are excise duty decreases for percentages of local content achieved beyond the minimum 66 percent.

Nissan, Fiat, Ford, GM, British Leyland, Mercedes, Volkswagen, Sigma, and UCDD produce automobiles and trucks. Alfa Romeo, BMW, and Peugeot produce autos. Toyota South Africa produces its own brand of autos and trucks and assembles Renault autos and trucks.

South Korea: There are four auto manufacturing companies in Korea - Kia, Hyundai, Saehan, and Shin Jin. The first three companies also manufacture buses, and two - Hyundai and Saehan - manufacture trucks.

The tariff rate for automobiles is 80 percent.

Automobiles and auto components are on the "Restricted List", meaning prior approval of the Auto Trade Association is required before an import license can be issued. With regard to 100 percent foreign-made cars, the Association will issue import licenses depending on the "supply and demand situation" in Korea; however, such licenses are rarely approved.

Local content requirements are set by the Korean government for domestic manufacture and assembly of all cars, trucks, and buses. Those for cars, effective January 1, 1980, are as follows:

Maker	Type of vehicle	Local content requirement (Percent)
Kia	Brisa	94
-	Brisa II	92
-	Fiat 132	63
-	Peugeot 604	20
Hyundai	Pony	93
-	Cortina Mark IV	62
-	Granada	21
Saehan	Gemini	88
(Cars)	Rekord	65
Shin Jin	Jeep (J-5)	73
-	Diesel Jeep	91

There are no specific export requirements *per se* for Korean auto manufacturers, although there are export targets and some moral pressure to meet those targets. According to the Korean auto industry association, however, there is one stipulation imposed on Hyundai and Kia: in order to obtain permission to import one knocked down Ford Granada or Peugeot 604 for local assembly and sale, the companies must export five domestically manufactured passenger cars.

Taiwan: Current local content requirement for vehicles is as follows: automobiles (including sedans, wagons and jeeps of 3.5 tons and below): 70 percent with proviso that manufacturer must produce one of the following components: (1) engine, (2) piston, connecting rod, and piston pin, (3) crankshaft, (4) axle transmission, (5) spring, (6) cylinder valve. Light motor vehicles (including truck, pick-up, and station wagon of 3.5 tons and below): 70 percent with proviso similar to sedans. Import duties on automobiles are from 55 percent to 75 percent depending on type.

Tanzania: No local content regulations exist. Imports are limited almost entirely to the government. Import tariffs vary from 40-100 percent depending on engine size. Except for trucks, the only automobile assembly operation is by British Leyland.

Thailand: Local content regulations requiring 35 percent local sourcing by August 1980 increasing annually to 50 percent in 1983 are in effect. Imports of built up passenger cars are prohibited. Duties of 150 percent are levied together with a 40 percent business tax on imported automobiles. Toyota, Nissan, Isuzu, and Ford produce cars, trucks and buses. Hino produces trucks and buses. Fiat, British Leyland and Volvo produce cars and buses. Mitsubishi, Mazda, Daihatsu, Subaru, GM, Volkswagen, Peugeot, Renault, BMW, Alfa Romeo, Citroen, Lancia, and Audi produce cars.

Turkey: Local content regulations are contained in the "Assembly Industry Regulation" enforced by the Turkish Ministry of Industry and Technology. Locally produced items are not permitted to be imported. Therefore, importation of automobiles is not permitted except under special circumstances. Import tariffs are 175 percent. Automobiles are produced under license from Ford (the Reliant Motor Company of U.K.), Fiat and Renault.

Uruguay: Local content regulations are in effect requiring local content of 25-32 percent of vehicle weight. Imports of automobiles are prohibited. Export regulations require the export of 40-105 percent (depending on vehicle type) of the import value of the completely knocked down kits the assembler imports. Peugeot-Citroen, Renault, Volkswagen, BMW, Ford, GM, and Fiat assembly automobiles in Uruguay.

Yugoslavia: Local content regulations require 50 percent local content to avoid imposition of higher sales taxes. Imports from other countries are only permitted by authorized dealers. Import tax on vehicles is 17 percent *ad valorem* and the duty is 25 percent. Authorized dealers are required to export goods totaling 30 percent of the value of each imported automobile. Quotas are maintained on imports from the USSR, East Germany, and Czechoslovakia and may be paid for in local currency. Other imports must be paid for in hard currency. Fiats, Ladas, Volkswagens, Audis, and Citroens are manufactured locally.

APPENDIX II

OTHERS ACT TO SAVE THEIR AUTO INDUSTRIES; THE U.S. DEBATES AS OURS DECLINES

Summary of Automobile Trade Restrictions (a)

	Local Content Requirements	Non-Tariff Import Restrictions (b)	Export Requirements	Current Auto Tariff (c)
Australia	Yes	Yes	No	35-57%
Austria	No	Yes	No	20.0
Belgium*	No	Yes	No	10.8
Brazil	Yes	Yes	Yes	185-205
Canada*	No	No	No	14.2
Denmark	No	No	No	10.8
France*	No	Yes	No	10.8
Germany*	No	No	No	10.8
Italy*	No	Yes	No	10.8
Japan	No	No	No	0.0 (d)
Mexico	Yes	Yes	Yes	n.a.
Netherlands*	No	No	No	10.8
New Zealand	No	Yes	No	55.0
Norway	No	Yes	No	7.6
South Korea	Yes	Yes	Yes	80.0
Spain	Yes	Yes	No	68.0
Sweden	No	No	No	9.0
Switzerland	No	No	No	10.0 avg.
United Kingdom*	No	Yes	No	10.8
United States*	No	No	No	2.8

(a) The measures cited in this chart are for new cars. Trade restrictions on used cars are not reflected.

(b) Import restrictions apply to non-tariff measures maintained by a country which deals solely with imports. Tax measures which apply to both imports and domestically produced products are not included.

(c) Most European countries impose hefty value-added taxes (VATs) that make the effective tariff rate higher than shown.

(d) While no tariff is charged, Japan erects a complicated set of hurdles: peculiar product standards, vehicle by vehicle testing of imports, etc., which effectively double the price of imported cars.

* These countries have quantitative restrictions on imports from Japan.

n.a. = Not applicable; imports prohibited except by special arrangement.

Senator **Dole**. I understand that. I think, maybe with the exception of Australia, they are primarily developing countries.

But there is a problem. I guess that Senator Danforth's approach in S. 144 has not met with your total support. I missed your opening.

Mr. **Koplan**. You are correct.

Senator **Dole**. Sort of lukewarm support?

Mr. **Koplan**. Somewhat less than that.

Senator **Dole**. Not much support at all, you mean? [Laughter.]

Mr. **Koplan**. We do support—and we've said this in the past—any requirements that would provide additional information to us, to the Congress, to provide you with additional tools for your oversight responsibility in this area. And in that regard the bill does have some additional requirements to gather information. We would be happy to work with you with regard to that aspect of the bill, to see how that could be strengthened even further and perhaps tie the results of those reports to some mandate for action on the part of the administration.

Senator **Dole**. Do you have a close working relationship with the STR, with Ambassador Brock? Or do you have a working relationship with him?

Ms. **Jaeger**. Yes, sir.

Mr. **Koplan**. Yes, we do.

Senator **Dole**. At least he indicated that this morning, that he had opened up some good channels with your group.

Ms. **Jaeger**. Yes, sir. There is a dialog, always.

Senator **Dole**. But I think what you are suggesting is there has been only the dialog, and there hasn't been much evidence of any progress.

Mr. **Koplan**. No. Frankly, as you know, we have had serious problems with most of the trade proposals that the administration has recommended to the Congress.

The dialog has been there, but we find an unwillingness to be flexible, let's say, on the part of the administration.

Senator **Danforth**. Senator Bradley?

Senator **Bradley**. Thank you very much, Mr. Chairman.

Let me ask the witnesses to give their own view and the view of the AFL-CIO about what they would like to see in any kind of serious adjustment package.

You know, we talk a lot about trade and high technology, and how that's the way of the future, and people frequently forget that, if indeed that is the way of the future, and that is the way that the Government promotes the future, that there are some human questions to answer—like the potential that there will be sizable numbers of Americans who will not have a job if that's the direction that we take. That's not to say we shouldn't take that direction, but to simply say as someone who is representing an organization that will have a sizable number of people who will not have the same kind of job, or maybe not have a job, if we go that direction, what do you think we should do for those people?

For example, many years ago we developed something called trade adjustment assistance. Of course, that's gone by the wayside; that was eliminated in the last year. And it's quite possible that trade adjustment assistance in the form that it was devised was not particularly appropriate.

But what I hear coming from the administration when they talk about "adjustment," is primarily worker retraining; which, you know, might make some sense for people at 25 or 35, but doesn't make a lot of sense for people at 50 or at 55.

I was curious to know your thinking on what an adjustment package might look like that you would find meets the human needs of your members. And I'm asking you to take a leap here, and the leap is assuming there will be some adjustment.

Mr. **Koplan**. Well, let me begin by responding, Senator Bradley, that in the last Congress we testified on this issue many times—before this committee as well as before the House committee. It's been in budget testimony of the AFL-CIO as well.

We were told, "Listen to the administration," say in the last Congress, that "if the emphasis was put on training, and the emphasis moved away from assistance to workers dislocated, that they would leave the program intact and extend it, for example, to 1984."

I look in the current budget proposal, and I see that the administration would simply let the skeletal remains that still exist of adjustment assistance expire in 1983. There is no provision for a trade adjustment assistance program anymore. What exists in the budget is a figure of $240 million for 96,000 dislocated workers, but it's not tied to just workers, for example, who have lost their jobs because of imports; it would cover everyone.

So, as far as the administration is concerned, that would be the end of trade adjustment assistance as a program.

With regard to where we are coming from on it, we testified, as I say, before this committee in the last Congress. Both Senator Danforth and Senator Moynihan introduced bills in this area. I don't have those with me, but we have talked about returning to a national standard for adjustment assistance, including parts and services, and having a meaningful program.

I think the dilemma that the administration finds itself in is that as the result of increasing thousands upon thousands of workers who could probably establish that imports contributed importantly to their job loss, they found that maintaining any semblance of a meaningful program let alone improving it is just too expensive for them right now.

But we certainly don't feel that those workers should be penalized because they have lost their jobs not because of their lack of productivity but because of imports.

Senator **Bradley**. Right.

Mr. **Koplan**. That is something completely beyond their control; that's a matter of U.S. trade policy.

Senator **Bradley**. Right.

Mr. **Koplan**. We do have this concern: We are not looking for a skeletal trade adjustment program that can be used as an excuse to continue the trade policy as it is now, and so that those on the other side might say, "Well, we've taken care of the problem, because there is at least in name a trade adjustment program."

Senator **Bradley**. Well, let me ask you two followup questions.

One is, Is the way we determine whether job loss is due to trade competition acceptable to you now?

Mr. KOPLAN. No; it's not. It's better than it was at one point last year, because there was a provision put into the law that said it had to be a substantial cause, no less than any other cause. And that would have placed an impossible burden to establish that it was "no less" than any other. But that was corrected before it went into effect.

Senator BRADLEY. Do you have any problem with the ITC mechanism of determining?

Mr. KOPLAN. We have problems with the whole method of determination because of the inordinate, for example, amount of time that it takes from the time when a petition is filed to——

Senator BRADLEY. So that what you would like to see is an expedited procedure?

Mr. KOPLAN. Absolutely. Yes; that is one major problem.

Senator BRADLEY. All right.

Mr. KOPLAN. I mean, these people are out of work. They are suffering. And meanwhile that process just goes on forever.

Senator BRADLEY. All right. Is that the main thing, expedited?

Mr. KOPLAN. That would be one. Another would be to include other workers whose jobs are lost as a result of imports but who are not eligible, have not been eligible for assistance under the law the way it is now. I am talking about parts and services.

Ms. Jager, did you want to add something to that?

Ms. JAGER. Yes.

I think that part of the problem in responding to your questions, Senator Bradley, is that we view trade policy as an integral part of other policies.

And as far as the adjustment package is concerned, we view trade adjustment assistance as an integral part of trade policy, but not a substitute for taking other actions.

You weren't here when I explained that we are terribly concerned because, as we see it, current laws and policies unfortunately, the way we read this bill, would encourage further exports even of our newest technologies, leaving our markets open, encouraging companies to go abroad and export to the United States.

We are facing a deficit right now of about $45 billion in merchandise trade. Liberal economists are projecting doubling that next year. This assault will be so great on this economy that we feel that a great many steps need to be taken and need to be taken fairly quickly. They would not be restricted to trade adjustment packages; they would include, I think, a rethinking of where this economy is going, because I don't think enough attention is given in looking at an adjustment process to how cataclysmic the adjustment needs have now become.

I lived through 20 years of trade adjustment assistance, and it was usually too little and too late.

We do support all of the things that Mr. Koplan has described. We certainly support retraining. We know that people need to be retrained. But what we are saying is that adjustment isn't going to substitute for what needs to be done to the trade policy, because the time is too short and the events are going to overtake us very quickly.

Senator BRADLEY. Mr. Chairman, I know my time is up, but may I ask one more question?

Senator **Danforth**. Sure.

Senator **Bradley**. Yesterday in the Finance Committee we had the Secretary of the Treasury Don Regan here, and I was surprised at the number of Republican members—and I think the chairman was one of them—who suggested, at a time of rather serious economic crisis defined as (a) deficit, and (b) trade—how can we justify the third year of the tax cut, or a portion of the third year of the tax cut?

Now, not to beat that dead horse once again but simply to say, does it make any sense to you if a portion of that tax cut was not provided, but instead the revenues that would otherwise have been returned be used for a very specific and somewhat sizable trade adjustment package that would actually go beyond just a cyclical downturn?

Mr. **Koplan**. Well, let me just comment about the third year of the tax cut without tying it to how the money would necessarily be spent.

In the jobs area there are all kinds of things that start to come to mind, but with regard to the policy in the third year, just recently in the last few days there was a bill introduced in the House—and I know you have been concerned about that third year for quite some time, Senator. I know you have been very much involved in this.

Senator **Bradley**. They've heard that speech enough.

Mr. **Koplan**. All right.

There was a bill introduced, though, just recently by Mr. Guarini and cosponsored by Mr. Foley, Mr. Wright, Mr. Alexander, and Dick Gephardt, that would cap the third year at $700. That would, in fiscal year 1983, raise $900 million. In fiscal year 1984 it would raise or recapture $6 billion. And that figure rises to an ultimate figure of $8.5 billion.

At a time when the Congress is searching for ways to recapture revenue, generally this proposal would not impact on the lower- and middle-income people, and it would not deny people a cut this year; but it says to someone who is wealthy, "We can't afford to give you more than a $700 tax cut this year. You have to tighten your belt, to some extent, along with everyone else."

This is something that we have been talking about for quite some time, and I just call attention to the fact that it's starting to move again, and there seems to be some serious consideration being given to it.

Senator **Bradley**. But the point is, here is a chunk of revenue that's there, and that you can spend in a variety of ways——

Mr. **Koplan**. Yes.

Senator **Bradley** [continuing]. If you include tax cuts as a way of spending it.

The options are: You spend it with tax cuts, you spend it with jobs programs, you spend it with trade adjustment assistance, or you spend it with deficit reduction. It seems to me that somewhere in that mix might be something that not only this committee would like to look at but maybe this bill would like to be amended to deal with.

Senator **Danforth**. I doubt it.

Mr. **Koplan**. Well, I think Senator Danforth answered that question.

But I would certainly hope that a similar tax proposal is introduced on this side. It could be used for the various things that you have described, and we would be happy to talk about that if there is a hearing on it, certainly.

Senator **Bradley**. If you were going to list your priority of those things, how would you list those four—the tax cut, deficit reduction, a jobs program, or trade assistance? If that's too hard a choice to make——

Mr. **Koplan**. No, I'm trying to understand.

Senator **Bradley**. In other words, if you had to rank in order of importance, which of those four would you like to see?

Mr. **Koplan**. A jobs program.

Senator **Bradley**. Jobs first? All right. Thank you.

Senator **Danforth**. Thank you very much.

Next we have John Hunnicutt and Alexander Lidow.

Mr. Hunnicutt, would you like to start?

STATEMENT OF JOHN E. HUNNICUTT, PRINCIPAL, PEAT, MARWICK, MITCHELL & CO., SECRETARY-TREASURER OF THE COALITION OF SERVICE INDUSTRIES, INC.

Mr. **Hunnicutt**. Thank you, Mr. Chairman.

I am John Hunnicutt, secretary-treasurer of the Coalition of Service Industries and a principal in Peat, Marwick, Mitchell.

With me this morning is the coalition's counsel, Richard Rivers of Akin, Gump, Strauss, Hauer & Feld.

It is our pleasure to appear before you this morning on behalf of the coalition, the first and only national organization representing the service sector of our economy.

The coalition's member companies are drawn from a wide range of service industries including banking, insurance, investment, communications, retailing, advertising, shipping, and construction. A list of our member companies is attached to my prepared testimony.

Mr. Chairman, we are here on behalf of the coalition to offer our enthusiastic support of S. 144, the "Reciprocal Trade and Investment Act of 1983."

As you know, the coalition supported this bill's predecessor in the last congressional session, and if we believed this legislation was critical last session, Mr. Chairman, we believe more than ever in this post-GATT Ministerial period that the passage of this bill is essential.

S. 144 is a necessary and important piece of trade legislation which could help put services on an equal footing with manufactured goods in our trade laws.

As you and the members of this subcommittee are aware, the importance of the service sector and its contribution to our economy is quite significant. Services currently produce 67 percent of our gross national product. Over half of the private sector work force is employed by services companies, and when Government workers are added this figure rises to 70 percent.

In 1981 our services exports were so large as to yield over a $54 billion services trade surplus. We have attached to this testimony three charts which graphically illustrate this data.

Not surprisingly, in a time of great domestic economic difficulty, national attention has turned to this relatively bright spot in our economy. We have seen this dramatically within the coalition itself. In its 1-year life, the coalition's membership has nearly quadrupled from 8 founding members to 29 current members.

The Reciprocal Trade and Investment Act, S. 144, would accomplish several critical objectives of high priority to the service sector.

First, it would serve notice to our trading partners that the Congress of the United States has thrown its full weight behind the American service sector and the efforts of the executive branch in the international arena to bring services under the same liberal training framework as goods. This signal is all the more critical following upon the heels of the recent General Agreement on Tariffs and Trade Ministerial, where the United States—in particular, USTR Ambassador Brock—achieved a step forward, which the coalition strongly supports, in bringing services within the GATT.

This was no mean task, especially given the widespread lack of understanding among foreign trade leaders about the importance of services to their economies. Such lack of awareness is hardly surprising, however, since until recently U.S. trade experts have been equally in the dark.

Without the combined momentum which passage of S. 144 would provide in addition to our GATT Ministerial achievement, our trading partners will cease to take seriously the need for maintaining and improving a liberal world exchange in the services sector. Nontariff barriers abroad will continue to proliferate. Nations will seek to protect infant industries in, for example, highly technological areas such as data processing or in established sectors where industries have become accustomed to either monopolistic or quasi-monopolistic status in their respective countries.

Canada, for instance, requires that all foreign banks maintain and process data within Canadian borders. Australia forbids the screening of television commercials filmed abroad, and Norway has not licensed a foreign insurance company in four decades.

We must work vigorously to restrain these types of service trade barriers and prevent their future growth.

Second, S. 144 will supplement the President's negotiating authority with a clear mandate from Congress for specific negotiating objectives on services. No longer will authority for services negotiations be a mere congressional afterthought as is the case under the Trade Act of 1974.

Armed with this reinforced authority, the President's negotiators will be able to attack foreign barriers to services.

These negotiations may take place, either on a bilateral or multilateral basis. In the latter context, S. 144 will authorize the President to begin to develop internationally agreed rules, including dispute-settlement procedures, in the service sector. Such rules, no doubt, will be developed in the context of GATT, whose trade ministers at the GATT ministerial this past fall have already agreed to examine service issues at a national level and to exchange information on services.

In addition, this bill will bring under the fast-track congressional approval provision of section 151 of the Trade Act any service trade agreements the President may conclude. The section 151 fast-track provision proved its value in the Tokyo round of multilateral trade negotiations.

A third reason, Mr. Chairman, for the coalition's support of this bill is its provision making it crystal clear that section 301, the unfair trade practices provision of the Trade Act of 1974, covers services, including overseas investments necessary for the export and sale of services.

S. 144 will erase any doubt on this point which could arise in future section 301 cases.

Let me add at this time that the coalition urges continued strong administration of this important provision of our unfair trade laws, and hopes that section 301 may in the near future be used as effectively, or even more effectively, in the services sector.

The coalition also supports section 6 of the bill, placing the U.S. Trade Representative's Office in the central role of coordinator of U.S. trade policy in services. Such a central coordinating body is essential to coherent implementation of a services trade policy, and the USTR has demonstrated its skill and activist attitude in this area.

At the same time, the coalition supports the granting of authority to the Commerce Department to actively promote service industry opportunities abroad and to improve service sector-data collection and analysis.

Our studies have shown that of the 15 priority sectors to which 80 percent of the Commerce Department's export promotion funds are granted, not one of these is a service sector. It is for this reason that the coalition is also hopeful that the Congress will enact legislation which will develop service industries promotion within the Commerce Department.

Our coalition also attaches high priority to improvement of services-data collection, both domestically and internationally, as well as services promotion and analysis of U.S. tax treatment of services, goals which section 6 of this bill will advance. The coalition has established task forces to work in all three of these areas, as well as a task force to analyze productivity in the services sector.

Lastly, the coalition supports reciprocity, in the traditional, liberal, and global context in which it has been used since 1934 when the United States first began to pursue a trade policy known as the reciprocal trade agreements program.

Reciprocity in this sense refers to a mutually advantageous exchange of bargained-for—that is, reciprocal—concessions, and it has been the cornerstone of U.S. trade policy in the general agreement on tariffs and trade throughout the postwar period. It encompasses the trade principles of unconditional most-favored-nation treatment, national treatment, and a negotiated balance of concessions. S. 144 accords generally with the liberal or global concept of reciprocity, and the coalition supports the bill in this regard.

The coalition has agreed to work closely with the administration and with our counterparts in other nations, such as the London-based Committee for the Liberation of Trade in Services, to insure that the process of removing services trade barriers is not stalled.

We will also work closely with Ambassador Brock in developing a national study to suggest a framework in which services trade problems can be dealt with in the GATT.

Again, Mr. Chairman, we wish to compliment you and tell you that the coalition enthusiastically supports the passage of this legislation.

Mr. Rivers and I would be pleased to answer any questions you may have.

[The prepared statement of Mr. Hunnicutt follows:]

TESTIMONY OF JOHN E. HUNNICUTT

COALITION OF SERVICE INDUSTRIES, INC.

Before the Senate Finance Trade Subcommittee
on S. 144, The "Reciprocal Trade & Investment Act of 1983"

February 4, 1983

Good morning, Mr. Chairman.

I am John E. Hunnicutt, Secretary/Treasurer of the Coalition of Service Industries, Inc. and a principal in Peat, Marwick, Mitchell & Co. With me this morning is the Coalition's counsel, Richard R. Rivers of Akin, Gump, Strauss, Hauer & Feld. It is a pleasure to appear before you this morning on behalf of the Coalition, the first and only national organization representing the service sector of our economy. The Coalition's member companies are drawn from a wide range of service industries including banking, insurance, investment, communications, retailing, advertising, shipping and construction. A list of our member companies is attached to this testimony.

Mr. Chairman, we are here on behalf of the Coalition to offer our enthusiastic support of S. 144, the "Reciprocal Trade and Investment Act of 1983." As you know, the Coalition strongly supported this bill's predecessor in the last Congressional session. If we believed this legislation was critical last session, Mr. Chairman, we believe more than ever, in this post-GATT Ministerial period, that the passage of this bill is essential. S. 144 is a necessary and important piece of trade legislation which would help put services on an equal footing with manufactured goods in our trade laws.

As you and the members of the Subcommittee are aware, the importance of the service sector and its contribution to our economy is significant. Services currently produce 67% of our GNP; over half of the private sector work force is employed by services companies and, when government workers are added, this figure rises to 70%. In 1981 our services exports were so large as to yield over a $54 billion services trade surplus. We have attached to this testimony three charts which graphically illustrate this data. Not surprisingly, in a time of great domestic economic difficulty, national attention has turned to this relatively bright spot in our economy. We have seen this dramatically within the Coalition itself. In the Coalition's one-year life, its membership has nearly quadrupled, from eight founding companies to twenty-nine current members.

The Reciprocal Trade and Investment Act, S. 144, would accomplish several critical objectives of high priority to the service sector. First, it would serve notice to our trading partners that the Congress of the United States has thrown its full weight behind the American service sector and the efforts of the Executive Branch in the international arena to bring services under the same liberal trading framework as goods. This signal is all the more critical, following upon the heels of the recent General Agreement on Tariffs and Trade ("GATT") Ministerial, where the U.S.

-- in particular, USTR Ambassador Bill Brock -- achieved a step forward, which the Coalition strongly supports, in bringing services within the GATT. This was no mean task, especially given the widespread lack of understanding among foreign trade leaders about the importance of services to their economies. Such lack of awareness is hardly surprising, since until recently U.S. trade experts have been equally in the dark.

Without the combined momentum which passage of S. 144 would provide in addition to our GATT Ministerial achievement, our trading partners will cease to take seriously the need for maintaining and improving a liberal world exchange in the service sector. Non-tariff barriers abroad will continue to proliferate. Nations will seek to protect infant industries in, for example, highly technological areas such as data processing, or in established sectors where industries have become accustomed to monopolistic or quasimonopolistic status in their respective countries. Canada, for instance, requires that all foreign banks maintain and process data within Canadian borders. Australia forbids the screening of television commercials filmed abroad, and Norway has not licensed a foreign insurance company in four decades. We must work vigorously to restrain these types of services trade barriers and prevent their further growth.

Secondly, S. 144 will supplement the President's negotiating authority with a clear mandate from Congress for specific negotiating objectives on services. No longer will authority for services negotiations be a mere Congressional afterthought, as is the case under the Trade Act of 1974. Armed with this reinforced authority, the President's negotiators will be able to attack foreign barriers to services. These negotiations may take place either on a bilateral or multilateral basis. In the latter context, S. 144 will authorize the President to begin to develop internationally agreed rules, including dispute settlement procedures, in the service sector. Such rules no doubt will be developed in the context of the GATT, whose trade ministers at the GATT Ministerial last fall have already agreed to examine service issues at a national level and to exchange information on services. In addition, this bill will bring under the "fast-track" Congressional approval provision of Section 151 of the Trade Act any service trade agreements the President may conclude. The Section 151 fast-track provision proved its value in the Tokyo Round of multilateral trade negotiations.

A third reason, Mr. Chairman, for the Coalition's support of this bill is its provision making it crystal clear that Section 301, the unfair trade practices provision of the Trade Act of 1974, covers services, including overseas investments necessary for the export and sale of services. S. 144 will erase any doubt on this point which could arise in future Section 301 cases. Let me add at this time that the Coalition urges continued strong administration of this important provision of our unfair trade laws and hopes that Section 301 may, in the future, be used as effectively, or even more effectively, in the service sector.

The Coalition also supports Section 6 of the bill, placing the U.S. Trade Representative's Office in the central role of coordinator of U.S. trade policy in services. Such a central coordinating body is essential to coherent implementation of a services trade policy, and the USTR has demonstrated its skill and activist attitude in this area. At the same time the Coalition supports the granting of authority to the Commerce Department to actively promote service industry opportunities abroad and to improve service sector data collection and analysis. Our studies have shown that of the fifteen priority sectors to which 80% of the Commerce Department's export promotion funds are granted, not one of these is a service sector. It is for this reason that the Coalition is also hopeful that the Congress will enact legislation which will develop service industries promotion within the Commerce Department.

Our Coalition also attaches high priority to improvement of services data collection both domestically and internationally, as well as services promotion and analysis of U.S. tax treatment of services, goals which Section 6 of this bill will advance. The Coalition has established task forces to work in all three of these areas, as well as a task force to analyze productivity in the services sector.

Lastly, the Coalition supports reciprocity in the traditional, liberal and global context in which it has been used since 1934 when the U.S. first began to pursue a trade policy known as the "Reciprocal Trade Agreements Program". Reciprocity in this sense refers to a mutually advantageous exchange of bargained-for (i.e., reciprocal) concessions, and it has been the cornerstone of U.S. trade policy and the General Agreement on Tariffs and Trade ("GATT") throughout the postwar period. It encompasses the trade principles of unconditional most-favored-nation treatment, national treatment, and a negotiated balance of concessions. S. 144 accords generally with the liberal or global concept of reciprocity, and the Coalition supports the bill in this regard.

The Coalition has agreed to work closely with the Administration and with our counterparts in other nations, such as the London-based Committee for the Liberation of Trade in Services ("LOTIS"), to assure that the process of removing services trade barriers is not stalled. We will also work closely with Ambassador Brock in developing a national study to suggest a framework in which services trade problems can be dealt with in the GATT.

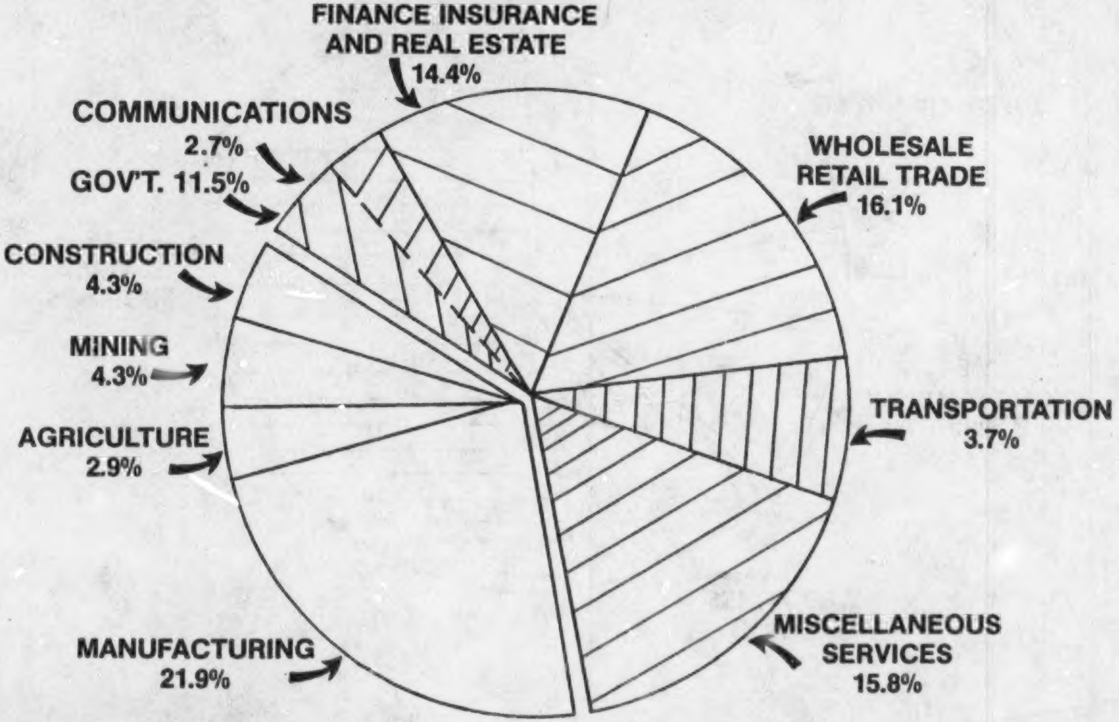
Again, Mr. Chairman, the Coalition enthusiastically supports the passage of this legislation. Mr. Rivers and I would be pleased to answer any questions you may have.

MEMBER COMPANIES

1. American Express Company
2. American International Group, Inc.
3. American Medical International, Inc.
4. American Telephone & Telegraph Company
5. ARA Services, Inc.
6. Bank of America
7. Bechtel Power Corporation
8. Beneficial Corporation
9. CBS, Inc.
10. Chase Manhatten Bank, N.A.
11. CIGNA Corporation
12. Citibank, N.A.
13. City Investing Company
14. The Continental Insurance Companies
15. Deloitte Haskins & Sells
16. Flexi-Van Corporation
17. Fluor Corporation
18. Intercontinental Hotels
19. International Business Machines Corporation
20. The Interpublic Group of Companies, Inc.
21. Johnson & Higgins
22. Manpower, Inc.
23. Marsh & McLennan, Inc.
24. Merrill Lynch & Co., Inc.
25. Peat, Marwick, Mitchell & Company
26. Phibro-Salomon, Inc.
27. Sea-Land Industries, Inc.
28. Sears, Roebuck and Company
29. Young and Rubicam, Inc.

COMPOSITION OF GROSS NATIONAL PRODUCT 1981

(BILLIONS OF CURRENT DOLLARS)

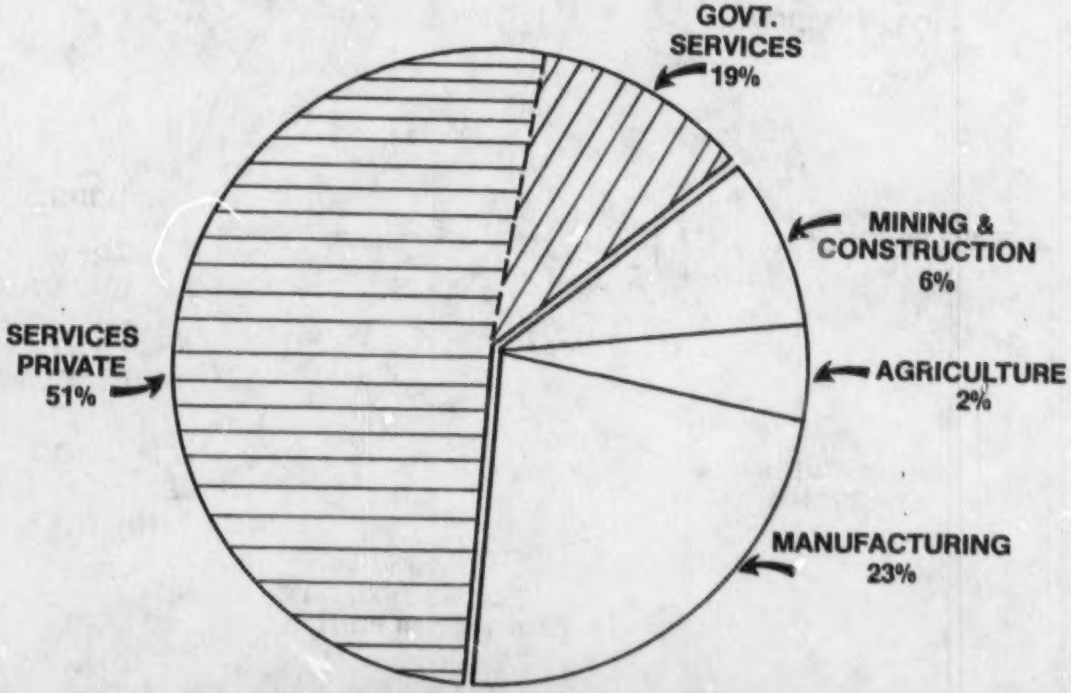


ALL SERVICES 66.6%
GOVERNMENT 11.5%

U.S. DEPT. OF COMMERCE, BUREAU OF ECONOMIC ANALYSIS
SURVEY OF CURRENT BUSINESS, JULY 1982, p. 78

1981 DISTRIBUTION OF FULL TIME EQUIVALENT EMPLOYEES AMONG INDUSTRIES

(IN THOUSANDS)



U.S. DEPT. OF COMMERCE, BUREAU OF ECONOMIC ANALYSIS
SURVEY OF CURRENT BUSINESS, JULY 1982, TABLE 6.8B

ESTIMATED FOREIGN REVENUES OF THE U.S. SERVICES SECTOR, 1980

SERVICE INDUSTRY	FOREIGN REVENUES (billions dollars)
Accounting	2.35
Advertising	2.05
Banking	9.10
Business/Professional Technical Services	1.07
Construction and Engineering	5.36
Education	1.27
Employment	0.55
Franchising	1.26
Health	0.27
Information	0.60
Insurance	6.00
Leasing	2.35
Lodging	4.60
Motion Pictures	1.14
Tourism	4.15
Transportation	13.93
Subtotal, 16 service industries	56.05
Miscellaneous financial services, communications, etc.	4.00 (est.)
TOTAL OF U.S. SERVICES SECTOR	$60 billion

SOURCE: THE ECONOMIC CONSULTING SERVICES, INC.

Senator **Danforth**. Thank you very much, sir.

Mr. Lidow?

STATEMENT OF DR. ALEXANDER LIDOW, VICE PRESIDENT, SEMICONDUCTOR DIVISION, RESEARCH AND DEVELOPMENT, OF INTERNATIONAL RECTIFIER CORP., WASHINGTON, D.C.

Dr. **Lidow**. Mr. Chairman, I am Dr. Alexander Lidow, vice president, Semiconductor Division, Research and Development, of International Rectifier Corp., and I'm here to testify on behalf of the Semiconductor Industry Association, which represents the majority of U.S. merchant and captive producers of semiconductors in matters of trade and Government policy.

I am here speaking in support of S. 144, the Reciprocal Trade and Investment Act, which would strengthen our current trade laws and enable the U.S. Government to deal more effectively with foreign market distorting practices in high technology. The problems posed by those practices is becoming increasingly severe, particularly to my industry, and passage of this legislation is needed to give the Government the mandate and tools it needs to deal with them.

I am submitting to your committee today a study, prepared by the Semiconductor Industry Association, called the Effect of Government Targeting on World Semiconductor Competition. I also have a summary here today for each one of you which basically deals with all these subjects in very brief form.

This addresses one of the most serious problems faced by U.S. high technology industries today, and that's the practice of Government targeting.

Under targeting, a foreign government will basically pick a high value-added, high-growth, industry and do whatever it takes to establish that country's companies in that industry as a dominant force.

I have, today, an illustration of the effects of targeting, particularly as it affects the semiconductor industry, and I would like to cite two graphic examples: One, of the effect of targeting in our home markets, and then the second example, which shows the effect of targeting in the home country's market, based on market protection.

[Showing of charts.]

Dr. **Lidow**. The first chart on your right, my left, shows you sort of a typical cost or price demand curve for a dynamic random-access memory, which is sort of the flagship of the semiconductor industry in terms of technology and volume.

What you see is a chart that starts in 1975 and works its way up to the present, showing what we call a 70 percent slope; every time the volume doubles, the price of that function goes down by about 30 percent.

You will notice a very straight line from 1975 up to 1980, despite enormous competition, tremendous price decline, as illustrated there, the entry and exit of many companies, both United States and foreign. But in 1980 you will see a departure from that historic, what we call a learning curve of price demand. It's drawn in red ink, for what will become a clear reason in a few moments.

In 1981, you can see the drastic departure from that typical learning curve. As a matter of fact, the rate of decline after 1980 was 2½ times this classic 70-degree slope, and that was completely due to Japanese imports of dynamic Random Access Memories.

[Change of charts.]

Dr. Lidow. On the next chart you will see the graphic effect of this import problem.

On the top you see the U.S. shipments in units, in millions of dollars, from 1980 through 1982, of both 16K and 64K RAM's. Those are the two highest technology components of the dynamic random-access market.

Underneath it, in red, are the Japanese shipments. And you can see, in 1980, an incremental increase in shipments to the United States. Then, after about the second quarter of 1980, a dramatic rise, or export push, on the part of the Japanese, which is very clearly coupled with the red ink—not just on this chart, but on all the financial statements of the semiconductor companies in that industry.

So this cannot be attributed totally to recession, because as you can see the volume in U.S. shipments rises at a pretty dramatic rate throughout this period. It is strictly due to price attrition.

If I could have the next chart, please.

[Change of charts.]

Dr. Lidow. This is an illustration of what occurs in our effort to push exports into Japan or penetrate the Japanese market.

The 80–80 microprocessor, first invented by a U.S.-based Intel Corp., was exporting into Japan at a very healthy rate through 1979, at which point NEC achieved volume production status on that product. And I would like to stress that this chart is a conglomeration of all U.S. producers, five producers, of 80–80 microprocessors, and not just one.

And all the producers saw their market in Japan not just disappearing, but all the orders outstanding being canceled, which is responsible for that red ink once again, all simultaneously with the introduction of NEC's volume production of this product. That market never reappeared.

Just for comparison, we have a chart showing the world market, showing that it had a rather typical life-cycle-type shape to it, where the problem increases in volume and then, as it reaches obsolescence, it slowly decreases. So, this is a clear distortion of the markets.

You know, it is fairly clear to me, being in the industry, that markets are like in the middle of a Japanese-built trash compactor. We are being squeezed from all sides, and there is really no outlet.

So, I urge you to pass S. 144, as it gives the administration the tools to quickly address these practices of targeting. It sets up a monitoring system which will give us real time input as to the benefits or the deleterious effects of either our Government's or the other governments of this world's distortions of free trade.

Thank you.

[Dr. Lidow's prepared statement follows:]

Before the
Subcommittee on International Trade
Committee on Finance
United States Senate

STATEMENT OF
ALEXANDER LIDOW

Vice President, Research and Development--
Semiconductor Division
International Rectifier Corporation

on behalf of the

SEMICONDUCTOR INDUSTRY ASSOCIATION

February 4, 1983

Mr. Chairman, I am Alexander Lidow, Vice President, Research and Development, Semiconductor Division, International Rectifier Corporation. I am here to testify on behalf of the Semiconductor Industry Association, which represents the majority of U.S. merchant and captive producers of semiconductors in matters of trade and government policy.

I am here to speak in support of S.144, the Reciprocal Trade and Investment Act, which would strengthen our current trade laws, enabling the U.S. government to deal more effectively with foreign market distorting practices in high technology. The problems posed by those practices are becoming increasingly severe, and passage of this legislation is needed to give the government the mandate and the tools it needs to deal with them. It is not an exaggeration for me to state that these market distorting practices are becoming so serious that they threaten this country's ability to grow and remain competitive in the high technology industries.

The Problem of Government Targeting

I am submitting to your committee a study prepared by SIA, The Effect of Government Targeting on World Semiconductor Competition, which addresses one of the most serious problems faced by U.S. high technology industries today -- government targeting. Under targeting, a foreign government identifies certain industries which it wishes to promote to a level of international competitive prominence, if not dominance, and takes a series of measures designed to bring about that result. Many of these measures distort free market competition, violate international agreements, and injure individual U.S. firms. This study is a case history of one such instance of government targeting and promotion of a high technology industry -- Japan's promotion of its semiconductor industry -- and the impact of that policy on U.S. firms.

As the study describes, in the mid-1970's the powerful Japanese Ministry of International Trade and Industry (MITI) set a long range economic goal for the nation -- preeminence in the high technology industries. MITI took a wide range of mutually-reinforcing promotional measures to ensure that Japanese industry attained that goal. MITI organized Japan's high technology industries -- participating with them in setting industry-wide goals for research, development and production. MITI encouraged the formation of research cartels to avoid duplicative R&D and share costs and results. MITI provided numerous financial incentives, including grants for R&D, low-interest loans, tax breaks, and assistance in securing private-sector bank loans to its high technology firms.

Because semiconductors are the basic building blocks of many other high technology sectors (telecommunications systems, robotics, computers), MITI's promotional effort initially placed a very heavy emphasis on semiconductor development -- and we in the semiconductor industry have been among the first of the U.S. high technology industries to begin to feel the Japanese program's impact.

The Japanese government protected its semiconductor industry through the mid-1970's with quotas, restrictions on foreign investment, and other measures. This permitted domestic semiconductor producers to establish production capabilities and a strong domestic market position at a time when the U.S. industry enjoyed clear technological leadership. Then, in 1975-76, as formal import and investment restrictions were lifted, MITI launched a major industry-government collaborative R&D program designed to promote Japanese capabilities in very large scale integration (VLSI), one of the most complex and commercially significant semiconductor technologies. The VLSI Project was a "research cartel," partially funded by the government, featuring a collaborative division of R&D labor by the participating firms -- Japan's leading semiconductor producers -- and a sharing of the results among the various participants. This enabled each company to develop new technologies at a fraction of the cost incurred by U.S. firms, who must conduct their R&D independently.

At the same time that this program was under way, Japanese firms began a major buildup of semiconductor production capacity -- focusing heavily on capacity needed to produce advanced VLSI devices, including the 16 kilobit and 64 kilobit random access memories (16K and 64K RAMs) -- computer memory chips that enjoy widespread potential demand and which contribute to a producer's technological capability in virtually all other semiconductor product lines. The 64K RAM is the most advanced computer memory chip available on the market today, and is forecast to become the largest-selling semiconductor device in history. In the context of world semiconductor competition, RAMs represent the "high ground," and the Japanese were moving, with government help, to seize that high ground.

The Japanese Export Drive

Japan began exporting large numbers of 16K RAMs in the late 1970's, and by early 1981, six Japanese companies were producing and exporting 64K RAMs. At that time, only three U.S. companies, proceeding on their own, were producing this advanced device, and one of these companies later withdrew its design. Japanese companies turned out 64K RAMs faster than the world market could absorb them, and Japanese companies led 64K RAM prices rapidly downward. In 1981, the price fell from $25-30 per unit to about $8 by year's end. By the end of 1981, Japanese firms had captured 70 percent of the world market for this device.

The first chart I have with me shows that 1981 RAM prices, initiated by the Japanese, were much lower than would have been predicted, given the consistent historical industry experience. The experience curve for the industry, depicted in the chart, has followed a consistent pattern for many years -- the price per bit has declined at a predictable rate of 30 percent for each doubling of industry output. This rate of price decline has remained constant despite substantial competitive ferment in the industry -- entry and exit of individual firms, new product generations, recessions and so on. Then in 1981, coincidentally with the Japanese 64F RAM export effort, the price fell 2 ½ times that fast -- a break with precedent that is simply unprecedented. In this connection it is significant that one Japanese semiconductor executive has predicted that no one will be profitable at the projected mid 1983 64K RAM price of $5.00 per device.

This kind of pricing has hurt the U.S. industry. The second chart shows the impact of Japanese exports of 16K and 64K RAMs on five of the six leading U.S. producers. Between the first quarter of 1981 and the fourth quarter of 1982, these five producers suffered a cumulative net pre-tax operating loss of $148 million on these two product lines. The period of heaviest losses coincided with the biggest volume of Japanese shipments. (The sixth producer has indicated that it too lost money on the 64K RAM in 1981 and 1982, so these losses are, if anything understated.) You will note that in this composite of 16K and 64K RAM results, the U.S. firms had more shipments than the Japanese. The bulk of the U.S. shipments, however, are accounted for by the 16K RAM -- the older generation product. In 64K RAMs, the later generation product, the Japanese outsold U.S. firms by more than 2 to 1 in 1981. The fact that the U.S. firms enjoyed a high volume of shipments even during their heaviest loss period tends to refute the notion that their losses were mainly due to the recession. As one U.S. executive commented,

> For us, this has been a price recession, not a volume recession.

Deterrent to U.S. Investment

The impact of these losses has been serious--in effect they are a deterrent to further U.S. investment in the product areas the Japanese have chosen to dominate. Little incentive exists to invest in sectors at which the Japanese are taking collective "aim." Thus, U.S. semiconductor companies which produced earlier generations of RAMs are refraining from entering production of the 64K RAM. Whereas 12 U.S. companies at one time produced 16K RAMs, by mid-1962 only 5 were producing 64K RAMs, and of these, only 2 were in large scale production. While the increasing cost of RAM production and development may have deterred some of these firms, others have indicated that Japanese pricing has caused them to defer further investment in the 64K RAM. Moreover, while additional firms may enter the market, as one Japanese semiconductor executive commented, "the latecomers will be shaken out." The number of U.S. firms producing the next generation of RAMs, the 256K, may well be even less than at the 64K level.

Many other semiconductor product lines in which U.S. firms are strong have experienced little Japanese competitive pressure to date--instead, typically, the Japanese effort has focused tremendous pressure on key product areas like RAMs. However, if past experience is any guide, Japanese firms will soon build on experience and market presence gained in producing RAMs to expand into other product areas.

Market Protection

As Japan has expanded its semiconductor exports, however, its domestic market has remained protected against U.S. semiconductor imports, notwithstanding the elimination of most formal import and investment barriers in the mid-1970s. Despite repeated major efforts by U.S. firms to expand their presence in Japan over a period of decades, U.S. sales today account for under 10 percent of Japanese domestic consumption--a smaller share than when the market was protected by formal quotas. In part this reflects the Japanese market structure-- the same firms that produce most of Japan's chips also account for most of its semiconductor consumption. They control most domestic demand, and have the incentive and the ability to resist imports--and a long history of doing so.

U.S. semiconductor firms selling their products in Japan have repeatedly found that when a Japanese product comparable to their own becomes available, their own sales fall off sharply, sometimes virtually to zero. An example of this is depicted in the third chart, which shows the experience of three U.S. firms selling 8080-type microprocessors in Japan. The top chart shows U.S. 8080 bookings in Japan, which were reasonably stable through mid-1979. Soon after Japanese firms were able to supply the whose Japanese market, however, U.S. firms' sales virtually disappeared (The negative figures reflect canceled bookings). Subsequent bookings have been virtually nil. This experience should be contrasted with the same three companies' experience in the world market (bottom chart) with the same product during the same time frame. As you can see, in contrast to the experience in Japan, U.S. bookings tapered off gradually as the life cycle of the product came to an end.

A protected home market does more than simply deny sales to U.S. firms, although that is certainly a serious problem. Protection gives Japan the ability to nurture prospective growth sectors to the point where they can suddenly challenge U.S. high technology firms very aggressively in the world market. As a

1980 advertisement run by 16 Japanese firms in Scientific American observed,

> Protection has been provided those industries that are in need of protection because of their newness and their fragility as emerging industries. Thus, protection is negotiated for the semiconductor and computer industries, and telecommunications. . . . Sectors of high value added, and high technology, with high growth potential, are afforded as much protection as can be arranged.

The Need For An Effective Response

Targeting entails many promotional measures-- market protection, subsidies, cartels, and other devices designed to give Japanese firms a competitive advantage over our own. These measures are particularly effective in high technology sectors because they reinforce several key elements of competitive success in those sectors -- the ability to sustain a high level of expenditure on research and development and a high level of capital investment. The results are typically manifested in the form of sudden onslaughts of low-priced exports, and abrupt loss of sales by U.S. firms in Japan. In the end, the result has often been abandonment by U.S. firms of the targeted areas to the Japanese.

It is significant -- and from our standpoint, ominous -- that this scenario has already been played out to an unhappy conclusion in industries such as steel, ball bearings and machine tools, all of which were targeted by Japan in prior years. It is unfolding now in semiconductors, and is likely to spread soon to other high technology sectors. Moreover, even more ominously, other countries such as France and Germany are now emulating Japan and developing target industries programs of their own.

This country simply cannot afford to see its high technology industries suffer the same fate as other industries which have seen their competitive position eroded in this fashion. The high technology industries represent the most efficient, productive, and growth-oriented manufacturing sector of the U.S. economy -- one which reinforces the economic health of all other manufacturing and service sectors. Continued U.S. strength in high technology is essential if we are to retain a strong economy, a high standard of living, and a solid export base through the remainder of this century. The challenge posed to our high technology industries by government targeting is, in effect, a challenge to our national economic well-being.

This Legislation Should Be Enacted

SIA recognized the problem posed by government targeting and the inadequacy of existing U.S. trade laws to deal with the problem. Accordingly, last year, in conjunction with other high technology industries, SIA developed a comprehensive legislative proposal designed to give the U.S. government the mandate and the tools which it needs to address this problem. This proposal was introduced in the last session of Congress as H.R. 6433, the High Technology Trade Act of 1982. The key elements of that legislation have been incorporated in S.144, which is currently pending before your subcommittee.

This legislation would fix as a principal U.S. negotiating objective the elimination of market-distorting foreign practices and the maintenance of open international markets for high technology products. This will open the way for the negotiation of bilateral agreements which can provide a strong framework for the elimination of protectionism and other market distorting practices in high technology.

The President would receive additional power to modify U.S. duties on high technology products as a source bargaining leverage in negotiating away existing foreign tariffs and other barriers. By advocating the reduction and eventual elimination of tariffs, the U.S. will make clear its position that foreign government policies of unfair protection and industry promotion are inappropriate and will not be tolerated. In addition, under this legislation, the President would receive additional tools for responding to market distorting practices -- if necessary, with more flexible and effective sanctions. Existing U.S. trade laws would be strengthened to provide for increased government monitoring of foreign market distorting practices typically employed in promoting targeted industries. This legislation, if enacted, would send a strong signal to other nations that we do not intend to allow our high technology industries to be undercut by foreign market distorting practices.

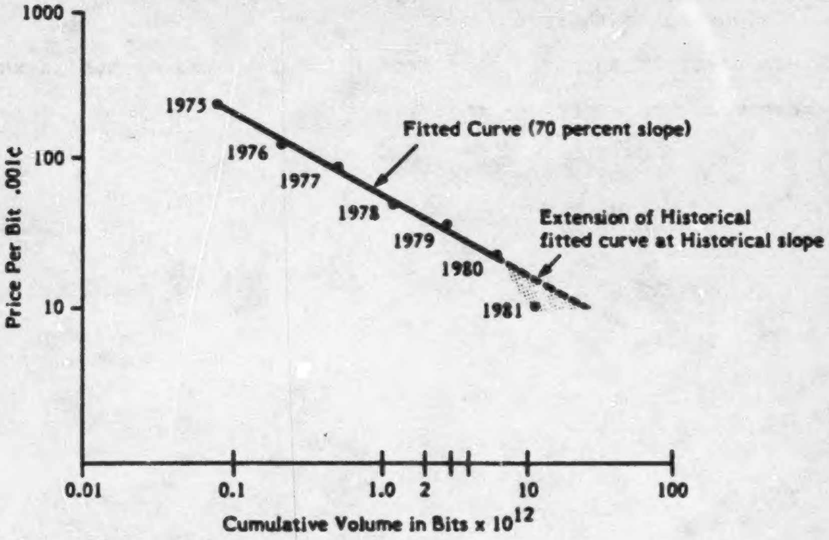
Japan's targeting strategy in high technology is predictive and preemptive-- it seeks to stake out for Japan a commanding position in the growth industries of the future. A U.S. government response that is simply reactive to Japan's initiatives will be ineffectual -- and we are likely to witness the eventual erosion of the U.S. advantage in high technology. That need not happen. S.144 represents an important step toward the achievement of a U.S. high technology strategy that is as forward-looking as that of Japan.

SIA strongly supports this legislation, and we emphasize the importance of its early enactment.

Figure L

HISTORICAL DYNAMIC RAM PRICE PER BIT v. CUMULATIVE VOLUME IN BITS

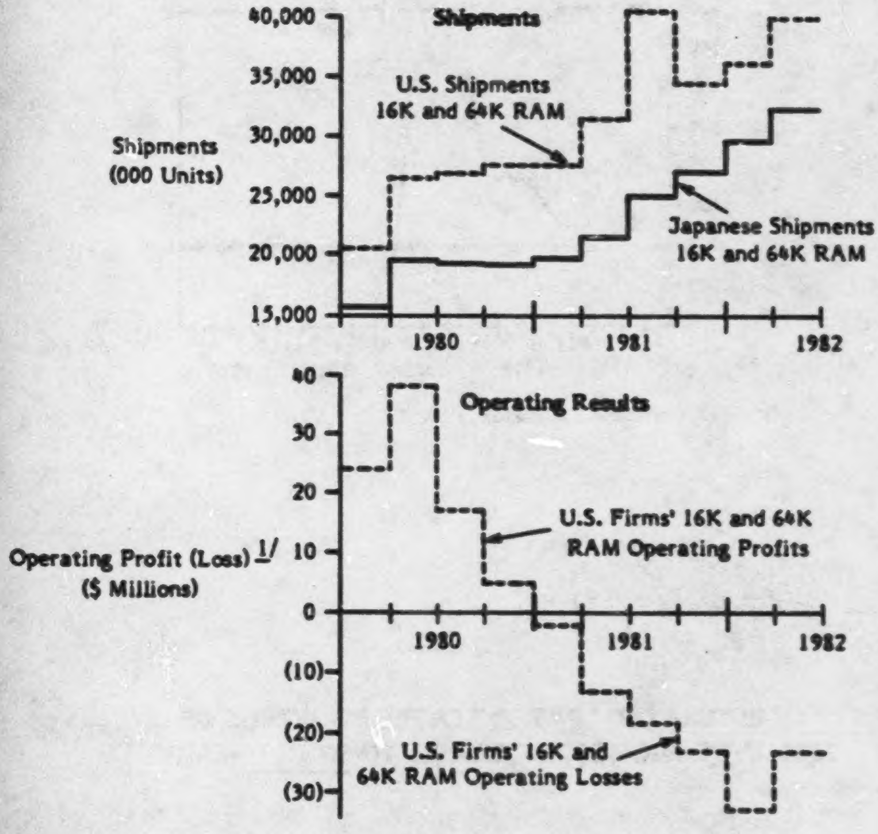
Data Points Represent Industrywide Mid-Year Average Price
Per Bit and Year End Volume, All Generations of RAMs



Source: Dataquest

Figure Q

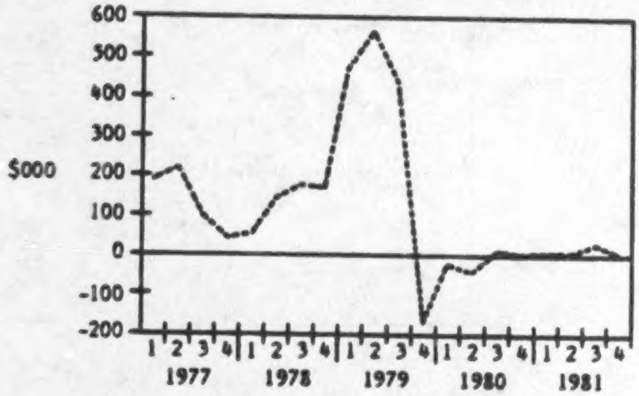
CUMULATIVE 16K AND 64K DYNAMIC RAM SHIPMENTS AND OPERATING RESULTS, 1980-1982



1/ Five U.S. firms' submissions composite net pre-tax operating results.

Figure CC

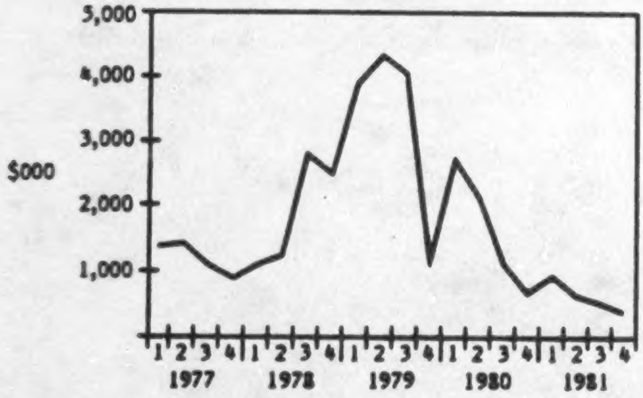
ESTIMATED UNITED STATES BOOKINGS OF 8080-TYPE MICROPROCESSORS TO JAPANESE MARKETS



Source: Company Estimates

Figure DD:

ESTIMATED UNITED STATES BOOKINGS OF 8080-TYPE MICROPROCESSORS TO WORLD MARKETS



Source: Company Estimates

Senator **Danforth**. Dr. Lidow, thank you very much.

Would you explain how the targeting is done? What does targeting mean? What would the Japanese do to penetrate our market and to get orders canceled in their market?

Dr. **Lidow**. Well, I'd say that the most classic example is that of Japan, which is now being used as an example for the rest of the world, actually; but it would take several stages.

First of all, there will be a government decision that this is a future-growth industry. And the next step, most typically, will be protecting home markets, allowing the home industries to develop a volume base and an experience base.

It will also at this time take the form of preferential loans, government-organized research cartels such as the VLSI project which was responsible for the dynamic RAM development in Japan.

As the volume inside the home market increases and the preferential loans allow the companies to build a capacity beyond their internal needs, they will then make an export push as, at the same time, the government gives a certain pre-eminence to that industry—thus, channeling the best and the brightest into that industry—and at the same time will possibly put some sort of like nontariff barriers such as high tariffs, quotas. These quotas in the semiconductor industry were in place until 1974. But as an example of the efficiency of targeting, in 1974 we had approximately 10 percent of the market in Japan; and after the elimination of quotas, that market sure went down. So any liberalization in Japanese purchasing practices has only resulted in a reduction in U.S. imports into that country.

Senator **Danforth**. All right.

Mr. Hunnicutt, with respect to services, obviously services are becoming a more and more important sector in our economy and a more important area for the United States to operate in international trade.

Are the barriers changing? Are barriers going up? Have you noticed any movement on the part of our competitors to shut out American services? Or are they pretty much doing right now what they have been doing for a long time?

Mr. **Hunnicutt**. No. I think, Mr. Chairman, it is fair to say that the situation is getting worse. It varies from sector to sector, and I don't have a first-hand understanding, necessarily, of shipping versus something else, but it is our experience that we are seeing more ingenious ways of limiting access to their markets or an ability to provide services—such things as, well, the most notable is in the area of transbarter data flows, which clearly inhibits us as well as manufactured goods producers in their ability to do business.

But beyond that, licensing requirements, certain requirements with regard to the name of practice. In our profession, for examples, in some areas of the world we can't practice in our own name; it has to be as an indigenous organization, although we may have some role in it, and it varies.

So I would have to say the short answer to your question is, we are seeing more of it and in greater varieties.

Senator **Danforth**. How do other countries' practices compare with our practices on limiting the flow of services? Do we operate the same way other countries do, or are we more open?

Mr. HUNNICUTT. Generalizations tend to be a little difficult. I think its fair to say, again, that we are probably a little more open; though, again, there is some unevenness.

It is very difficult to say that for services generally, whether you are talking banking or accounting or whatever, that it is uniformly greater. I would say it's easier, but in some of our member companies we are regulated within the States. And so you have the unevenness of access doing business, or rules of the game from State to State, which would apply as well to foreign companies.

I think, again as a generalization, it is easier, but we have some problems as well.

The point can be made, though—I have heard earlier today—with regard to "we want the world to be free trade, as we are."

There are a lot of examples in the services area, as well as in the goods area, in which we tend to take what might be described as protectionism. We are not as open as we think we are or say we are.

Senator DANFORTH. But, all in all, do you think that the services industry would benefit by a freer approach and more openness?

Mr. HUNNICUTT. Oh, yes, sir. Indeed. But I also think that the goods exporting or the goods manufacturing sector will benefit as well, because the services are so intimately required and close to the facilitation of export of goods as well as our own services.

If you make a widget, you've got to ship it; you have to have perhaps a license; you have to have certainly some accounting services; you'll probably need some legal services, you may need them in your market; you'll probably need insurance.

There are a number of our members who spend a great deal of time profitably assisting the goods area of our economy in successfully exporting.

Senator DANFORTH. Thank you both very much.

Mr. HUNNICUTT. Thank you, sir.

[Whereupon, at 12:07 p.m., the hearing was concluded.]

[By direction of the chairman the following communications were made a part of the hearing record:]

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John R. Opel
Cochairmen

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Cochairmen

February 3, 1983

Honorable John Danforth
United States Senate
Room 490, RSOB
Washington, D.C. 20510

Dear Senator Danforth:

Tomorrow you begin hearings on S. 144, the Reciprocal Trade and Investment Act. On behalf of the Business Roundtable, I'd like to compliment you for continuing your efforts to enhance access to foreign markets for U.S. trade and investment.

The proposed legislation is consistent with the fundamental principles of U.S. foreign trade and investment policies. The legislation reinforces the commitment of the United States to the enforcement of legal remedies against unfair trade and investment policies. It emphasizes the reduction of barriers to trade and investment through negotiation as opposed to using the concept of retaliatory reciprocity. We, thereforce, endorse the passage of S. 144 by the Senate.

S. 144 is a product of extensive discussions among representatives of the Administration, the Senate Finance Committee and the business community. We believe it represents a reasonable consensus; amendments should not be necessary.

We encourage quick, positive action by the Finance Committee on S. 144.

Sincerely,

Lee L. Morgan

Lee L. Morgan
Chairman, Task Force
on International Trade
and Investment

cc: Malcolm Baldrige
William Brock
Robert Dole

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Dr. Earl C. Spurrier
Vice President
Regulatory Affairs

February 18, 1983

The Honorable John C. Danforth
Chairman
Subcommittee on International Trade
Finance Committee
United States Senate
Washington, D. C. 20510

Re: NACA Statement to Senate Finance Committee on S. 144, "Reciprocal Trade and Investment Act of 1983

Dear Senator Danforth:

The National Agricultural Chemicals Association (NACA) is a nonprofit, trade organization of manufacturers and formulators of pest control products employed in agricultural production. NACA's membership is composed of the companies which produce and sell virtually all of the technical crop protection materials (active ingredients) and a large percentage of the formulated products registered for use in the United States. NACA fully supports S. 144, "The Reciprocal Trade and Investment Act of 1983", which was introduced on January 26, 1983.

The member companies of NACA are engaged in the development and production of proprietary products. This activity is extremely costly, and as a result successful products are developed only after long periods of research and testing. If there is to be an incentive for the continued investment in research and development, adequate legal systems for granting patents and protection technology and other intellectual property are essential.

In a number of foreign markets, our member companies have been unable to obtain or effectively protect their industrial property rights, due to foreign government inaction, interference or unwillingness to live up to trade agreement obligations. The legal systems of many foreign countries either do not offer protection for certain categories of intellectual property or are not sufficient to provide timely, effective protection of whatever rights may be obtained.

The problem of U.S. agricultural chemical exporters are merely representative of a fundamental threat to U.S. competitiveness in high technology products. The erosion or rejection of fundamental intellectual property rights undermines the competitiveness of any U.S. industry that relies upon technology or developmental factors for its success. If rights to the property value of invention, research and development are ignored or emaciated, this not only jeopardizes the ability of U.S. Companies to compete overseas, it also chills technological and economic development on a global scale. Furthermore, the international competitive thrusts of U.S. high technology firms are substantially blunted.

For the record, we would like to briefly cite once again several problems encountered by our member companies.

In 1977, the Du Pont Company learned that a state-owned company in Hungary was offering two patented fungicides for sale in Western Europe for the prevention of disease in numerous agricultural crops. Du Pont patents relating to these fungicide products, "Benlate" benomyl and "Delsene" carbendazim, exist in practically every Western European country, and they are valid through 1986. In the years which followed, Du Pont attempted through NACA and diplomatic channels to persuade the Hungarians to show some measure of respect for these patent rights. The availability of commercial quantities of our products during this time, however, attracted the interest of a number of unscrupulous agrichemicals brokers in France, Switzerland and Belgium, among other countries. Quick sales at cut-rate prices disrupted established product distribution systems in important European markets and caused a significant erosion of Du Pont's prices.

By 1980 the network of patent pirates had grown, and when the supply of products, covered by Du Pont patents, from Hungarian sources showed signed of declining, the pirates merely turned to Taiwan to meet their needs. Despite corresponding Du Pont patents in that country and Du Pont's efforts to enforce them, at least three Taiwan fungicide producers had facilities in place and were ready to begin exporting the products to Europe.

In 1980 it was estimated that Taiwan producers exported with apparent government approval over 100 metric tons of technical grade carbendazim and about 60 tons of formulated product to the pirate network of European distributors, and thereby contributed to the infringement of Du Pont's European patents. Despite appeals to the producers themselves and appeals to Taiwan Ministry level officials, directly and through the U.S. Trade Representative before Du Pont's Taiwan patents expired in April of last year, the exportation of carbendazim fungicide to Europe continued.

As a result there is now an overcapacity of carbendazim fungicide in the world, and the ability to recoup research and development costs has been markedly reduced because prices are depressed. Today, Taiwanese producers continue to advertise the availability of infringing products in countries where valid patents remain in effect. Countries like Taiwan contribute significantly to the decline in respect for international patent rights of American companies.

In addition to the effect that the pirate operation has had on the ability of a U.S. company to recover research and development costs, there is the problem that non-authorized chemicals may not be efficacious for the uses listed on the label, or may even be harmful to humans or the environment. This is likely to happen because pirate compounds do not follow the formula of the U.S. company, or their quality control is not the same, and harmful agents can occur in the product. The result is injury to crops or humans, and adverse public opinion toward agricultural chemicals in general.

To outline in more general terms the situation where our high technology export-oriented industry has suffered from the unfair trade practices of countries which enjoy fair treatment here, the following two situations should also be considered.

1. The first involves the case where countries purposely encourage the creation of pirate manufacturing enclaves from which imitation products flow into world markets. With lack of patent protection and effective enforcement of any rights granted, local manufacturers can easily set up to produce American proprietary products. They have a ready market in many Third World countries because of inadequate patent protection and enforcement and the ability to obtain product registration in those countries, using proprietary American registration data. As outlined above, this is the path being followed by Taiwan which has become the most notorious safe haven for pirates in the world.

Agricultural chemicals are not the only items pirated. An ever increasing array of U.S. companies and products are affected by the Taiwan pirates. The attached story from the January 10, 1983 Washington Post tells how widespread these practices have become. During the time that these predatory practices, directed to a large measure at U.S. companies, are encouraged by the government, Taiwan enjoys a large balance of payments surplus with the U.S., based on fair treatment here in our country. Moreover, they are the beneficiaries of substantial trade concessions. For example, they are the largest beneficiary of our General System of Preferences (GSP) duty-free status program. Over $1.8 billion in Taiwan exports came into the U.S. duty-free in 1980 - one quarter of total GSP.

2. The second general situation involves certain advanced lesser-developed-countries (LDC's) which deny effective patent protection for high technology U.S. products and make provisions for their exploitation by local industry, by local manufacturers or import of pirate technical materials from countries such as Taiwan. Here, it is not a question of pirate export, but of their governments making our technology available to local nationals for exploitation for, at best, token fees to the U.S. innovator. It may also mean excluding the American inventor-developer from the market. Such countries often use the device of compulsory licensing of our inventions to local nationals. Such licenses can even be on an exclusive basis, excluding the U.S. developer. In some instances when a local manufacturer begins operations under a compulsory license, the border is closed to competition from American products. This policy is generally followed by some of our major Latin American trading partners and others.

Recommendations

We believe that multilateral and bilateral agreements should provide for substantially equivalent protection of our property rights and proprietary registration data.

We also believe that, where they are abused, there should be formal actions which the government can take to bring these unfair trade practices to the bargaining table.

Finally, there should be meaningful, credible sanctions which can be applied with flexibility to encourage negotiations and provide a fallback position when a negotiated agreement cannot be reached. Clearly, such sanctions should include the selective removal of substantial benefits which the countries enjoy in the United States.

To try to rectify these many problem areas, S. 144 would help U.S. industries deal with international patent problems in the following ways:

1. It would provide statutory recognition of the importance of industrial property in international commercial relations.
2. It would set minimum standards for industrial property rights to which international trade and commercial agreements negotiated by the U.S. would conform.
3. It would help shorten the time frame in which the facts of a dispute over an industrial property right issue would be collected and presented in official form by the office of the U.S. Trade Representative, and it would require response and action by the U.S. Government in a specified time period.
4. It would expand significantly the variety of sanctions open to the U.S. so that "our penalties would fit their crimes." That is, it would not need to be an all-or-nothing solution regarding the revocation of MFN.
5. It would produce early government-to-government

negotiations to expedite what has heretofore been a slow moving and frustrating dialogue between a U.S. company and a foreign government and its state-owned chemical company.

NACA firmly believes that had these recommendations been in place four years ago, the U.S. Government support, together with our companies' negotiating efforts, would have produced agreements on many of the specific cases we have cited in this statement.

Therefore, in conclusion, we urge our proposals be included in the Committee's trade legislation. We further urge the Finance Committee to move this bill as fast as possible onto the Senate Floor for a vote and to keep the bill free of any special interest amendments, no matter how well-intentioned those might be. These, we fear, would have the effect of killing this bill.

American companies, particularly in the agricultural chemical business, are facing new problems on industrial property rights every week, and cannot bear the burden of further delay. An NACA paper is attached on the subject of competitive harm to U.S. companies which are presently fighting to protect proprietary research data and scientific information submitted to EPA to support domestic registrations. Without adequate laws to protect this data worldwide, this same data can then be used by pirate companies without cost to register these products using American technology.

By passing this bill, the United States will send a message to patent violators worldwide and go a long way to affording protection for American industrial property and the know-how and jobs that are inextricably attached to the property.

Very truly yours,

Earl C Spurrier

Earl C. Spurrier

Attachments

ECS:etb

The Washington Post

Monday, January 10, 1983 · GENERAL NEWS · A15

Millions in Pirated Name Brands Boost Taiwan's Export Trade

By Michael Weisskopf
Washington Post Foreign Service

TAIPEI—Past the steamy noodle stalls and pungent herbal medicines at China Street bazaar, a sleek "Apple II" home computer can be had for one-fifth of its price in the United States.

Keep walking down the musty market lanes and you can find unbelievably low prices for the smartest designer jeans, for French cologne, Epicurean brandy, Book-of-the-Month Club favorites, bikinis fit for the Riviera and the best motor oil—all courtesy of the pirates of Taiwan.

The cut-rate goods look and feel like the real thing, right down to the famous labels. Actually, they are just good fakes knocked off by commercial pirates who plunder the world's elite trademarks, patented know-how and copyrights.

If imitation is the highest form of flattery, then Taiwan surely scales the peaks of blarney.

Counterfeiting is so widespread and slick it takes an expert to detect a fraud. Thus consumers gladly lay out at least two-thirds less for names such as Puma, Ronson, Cartier, Head, Johnny Walker Black Label, Kodak, Samsonite, STP, Johnson & Johnson and Westinghouse.

"There isn't a legal pair of Levis in town," snapped U.S. businessman Henry Weiner. "The fakes are so close and the prices so far apart, you'd have to be nuts to buy the real thing."

Weiner ought to know. As local distributor for Revlon products, he has only to make a casual visit to a neighborhood cosmetic counter to ruin his day.

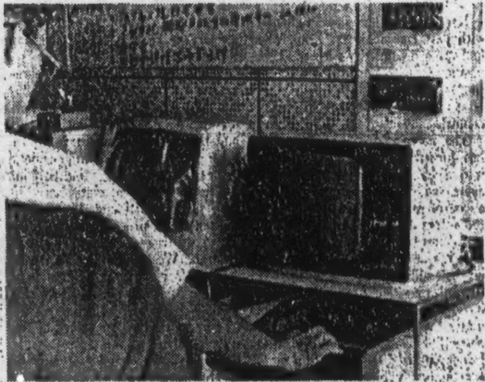
But the real lost treasure lies far beyond the shores of little Taiwan. What makes big foreign firms such as Revlon see red—Weiner calls it "the annual $100 million rip-off"—is piratical exports of the famous frauds made here.

Take the dilemma of Union Carbide's Eveready battery, copied and sent abroad by the millions by no less than seven Taiwan impostors.

"No one in Africa and the Middle East understands counterfeiting," lamented Union Carbide lawyer Paul Hsu. "If a fake Eveready goes bad in an hour, the buyer never buys another one. So my client loses a market share. But if the fake happens to work, we still lose."

Though quality is no hallmark, some counterfeits—clothing, cosmetics made of simple mixtures, books and chemical products described in published patents—are thought to be indistinguishable from the original.

Private investigator David Lo, who chases down pirates for corporate victims, held up two bottles of VO 5 shampoo with a challenge: "Which one is real?"



By Michael Weisskopf—The Washington Post

A shopper tries out a counterfeit "Apple II" computer on display at a Taipei market.

"The bottle is the same," he replied to his own question. "The smell is the same. They make the same suds. Only your hairdresser can tell."

Lo, however, would be the first to warn against fakes. Stories abound: the woman whose hair fell out after using sham shampoo; the African country that lost a wheat harvest because of phony herbicide; buildings imperiled by counterfeit circuit breakers; watches advertised as waterproof that drown in the first shower.

Even such expensive items as the cloned Apple II computers are less reliable and durable than the true model, according to Apple's salesman here. The fakes can only be used for a couple of hours at a time without risking a meltdown, he said.

Of course, who can demand quality from underground operators working in tiny, makeshift factories or chemical labs? They are said to work hurriedly, producing small orders for their salesmen to offer retailers at discount prices.

When Taiwan's pirates entered the computer age, they added a new and—for foreign firms—dismaying dimension to a cottage industry that has been churning out unsophisticated imitations for decades.

Two years ago, a handful of electronics students working feverishly in a Taipei suburban living room figured out the software of a real Apple II. Once able to recreate the computer brain, they easily began turning out cheap sets by importing components, following circuitry diagrams that come with real Apples and producing a replica of the plastic case and keyboard.

"I think the Japanese started out that way too," said Warren Lo, spokesman for a firm later started by the students.

Now, the Apple II brain can be bought in "kits" for about $200 with simple instructions for assembling a complete set. In Taipei's open-air markets, it is common to see old women squatting in the back of stalls putting together computers that their sons sell up front.

When electronic copycats began taking a sizable bite out of Apple's Asian market, the American firm struck back with a court order seizing several imitations.

But legal experts know the difficulty of rooting out pirates from Taiwan's safe harbor. Laws are weak, if they exist at all. Judges tend to side with "the little guy" against faceless multinational corporations.

Even counterfeiters caught red-handed receive such light sentences that they can convert them into small fines.

Now Taiwan's government, which has encouraged economic development with unfettered capitalism, finally seems ready to pull in its sails a little. After all, it maintains unofficial ties with most nations chiefly through the strength of its trade and favorable investment climate.

A number of laws are being considered to deter piracy and better protect foreign manufacturers. One proposal would set a maximum five-year jail term and $4,000 fine for convicted counterfeiters.

"This [piracy] is not only illegal but immoral," said Director-General Vincent Siew of the Board of Foreign Trade. "This will ruin our image and reputation. It will be bad for our trade development. When we develop into a developed stage and other countries come to copy our products, what will be our feeling?"

Until new laws go into effect, however, the big name companies seem resigned to the feeling summed up by one of their representatives.

"If you don't get copied in Taiwan," he said, "then it means you're no good."

COMPETITIVE HARM TO U.S. COMPANIES RESULTING FROM UNCONTROLLED RELEASE OF PROPRIETARY AND CONFIDENTIAL PESTICIDE REGISTRATION DATA

FIFRA § 10 should be amended to strengthen the protection afforded proprietary research data and scientific information developed by a company and submitted to EPA to support pesticide registrations. In order to preserve the economic incentives necessary for the agricultural chemical industry to invest in innovative research and development of newer, safer and more effective products, FIFRA must contain additional procedural safeguards and significant penalties to protect research data from commercial exploitation by competitors.

The competitive harm to United States pesticide producers resulting from uncontrolled release of proprietary and confidential pesticide registration data principally occurs in two ways. First, a competitor can obtain published data or compilations of data from EPA and use it to obtain a product registration in many foreign countries at virtually no cost. The original data owner, who invested substantial resources in the development of the data, has his own data used against him by a competitor to gain market entry.

Second, research data contains a company's best innovative research methodology, particularly with respect to metabolism, residue chemistry, analytical technology, and biological evaluation of degradation products of chemical decomposition. By securing the research data which contains this research methodology and biological activity, a competitor can save years of time and millions of dollars because he obtains, in effect, a "road map" to guide his research program and can thus avoid unproductive avenues of research. By saving years of unproductive research time, a competitor can enter a market several years earlier and sell far less costly competitive products than the original data developer. Again, uncontrolled disclosure of innovative research methodology, biological activity, and analytical procedures permits competitors to gain an unfair market advantage over the original data developer.

Competitive Harm - Inadequate Safeguards for American Innovation

The 1978 amendments to FIFRA § 10 permit public interest organizations and concerned scientists to review pesticide health and safety information. Section 10 does not, however, include protections adequate to ensure that only persons acting in the public interest -- and not those acting on behalf of competing pesticide producers seeking to exploit this valuable data for their own commercial gain -- will have access to these valuable data. For example, FIFRA currently does not contain any significant monetary penalties for the misuse of proprietary and confidential pesticide research data, nor does the Act contain any procedures to make sure that these data are not revealed to competing producers after they have been released by EPA. Without such procedural safeguards and penalties, there is no effective deterrence to the improper disclosure of research data from EPA's files into the hands of competitors.

Competitive Harm - Use of Disclosed Proprietary and Confidential Data to Register Products in Foreign Countries

One of the primary uses for the data is for foreign pesticide registration. Foreign and multinational corporations would like nothing better than to have the opportunity to exploit the research advances of American companies to obtain foreign registrations at little or no cost because they do not generate the data required to register a product.

Research data could be used by competitors for registration purposes throughout the world. The following chart illustrates the ease with which a competitor can obtain these registrations:

Central America including Mexico	Although full data reports are not always required, research data and/or detailed summaries could be used for registration in any Central American country.
South America	Same registration policy as Central America except, possibly, Brazil. Some patent protection does exist in Brazil. Other countries are more or less "open" to all.
Korea/Taiwan	Research data from any source is accepted in these countries.
Southeast Asia including India	Data from any source is acceptable, although some "order" is slowly evolving in India and Indonesia.

Middle East and Africa (except South Africa)	No restrictions whatsoever on the use of another company's research data to obtain market entry.
Eastern Europe	No restrictions whatsoever on the use of another company's research data to obtain market entry.

(See also, Attachment A - detailed list of countries with known pesticide data requirements or registration/notification requirements.)

As is evident from this chart, few foreign governments even ask whether research data submitted by an applicant are being used with the data developer's permission. There is no persuasive reason for permitting any company -- and particularly foreign companies -- to get a multimillion dollar free-ride from the research done by innovative American companies.

Competitive Harm - Use of Disclosed Proprietary and Confidential Data to Gain Knowledge of Innovative Technology

Knowledge of innovative research technology affords competitors the advantage of a "road map" in their product research which saves millions of dollars and several years in product development. Additionally, unrestrained disclosure weakens the United States as a world leader by allowing our innovative technology to be exported free of cost to foreign countries. Technology can grow only in countries that provide an environment where the efforts of the innovative researcher are protected from exploitation by competitors.

Communist bloc nations, in particular, have exploited every means at their disposal to obtain American technology, and do not allow patent protection to stand in their way. In these countries, government affiliated or subsidized companies are in direct competition for world markets with innovative companies of the United States. To preserve the pre-eminence of the United States as a producer of agricultural chemicals and agricultural chemical technology, procedural safeguards and penalties should exist to prevent research data from being disclosed to these foreign competitors.

The Value of Research Data

The current direct cost of developing a pesticide is estimated to range between \$20 and \$25 million. When indirect costs are included, i.e., those costs associated with unsuccessful development efforts, the total R & D cost to develop a new pesticide chemical entity is estimated to exceed \$50 million. Development of a pesticide product takes between 7 to 12 years or 45-50 man-years of research effort. Through such arduous and expensive research efforts, domestic pesticide producers have successfully developed important pesticide products that have greatly benefited agricultural production and controlled pest-borne diseases around the world.

The ultimate product of this costly and time-consuming research and development process is the scientific data which define the properties of the pesticide and establish its safety and efficacy for commercial use. It is the possession of these valuable data alone which enables companies to commercially market a pesticide chemical and to compete domestically and with foreign manufacturers internationally. These research data thus have enormous value. The data are indeed essential to the conduct of the pesticide business.

The potential for competitors to obtain these research data is a matter of great concern to the agricultural chemical industry. Obviously, substantial competitive harm could result if these data fall into the hands of competitors who use them to advance their own commercial purposes, as opposed to public interest groups who use them to review the health and safety aspects of the chemical product.

NACA's Proposed Amendments

Under the current FIFRA, U.S. pesticide producers are freely permitted to obtain the research data of their competitors. Once any person receives data from EPA, there is no procedure for keeping track of who the data are subsequently given to. Although statutory restrictions on disclosure to foreign and multinational pesticide producers do exist, they are ineffectual: they apply only to the original recipient of the data from EPA. Persons who subsequently receive data are under no restrictions. Thus, existing prohibitions can easily be evaded without any legal violation or penalty.

FIFRA currently does not have adequate prohibitions on the disclosure of data to pesticide producers and the use of such data for commercial purposes in the pesticide business; nor does it establish adequate procedures for implementing such prohibitions or penalties for violations of the prohibitions. The amendments we propose are intended to remedy these deficiencies.

NACA's proposed amendments to section 10 provide necessary controls on the disclosure, copying and transfer of research data in order to prevent the release of this valuable information to competitors of the data owner. These amendments would continue to permit members of the public, who have no competitive or commercial interest in the production or registration of pesticides, to review health and safety information. The procedural controls on the copying and transfer of data are designed only to safeguard the data from competitors, not to restrict access by noncompetitors.

These amendments prohibit EPA from disclosing research data to any pesticide producer or registrant, to persons outside of the United States, or to foreign nations who would remove the data from the United States. In addition, the general procedures for the release of data are revised to ensure that data submitters will be provided with a reasonable period of time, up to sixty days, in which to review data for the purpose of identifying portions that are trade secret, confidential, or contain innovative scientific methods. A data owner must be provided with thirty days notice prior to the initial public release of information claimed to be protected.

EPA would be required to promulgate regulations under these amendments establishing procedures for granting access to health and safety data, and prescribing conditions governing further copying or transfer of data, and for safeguarding data once disclosed. These regulations will provide a mechanism whereby data owners can confirm that persons who receive data from EPA are not affiliated with another pesticide producer or registrant, and will enable the data owner to keep track of the number and location of copies of data that are in circulation.

Substantial penalties are contained in these amendments for persons who violate the disclosure provisions in furtherance of a commercial purpose involving the production, registration, distribution or sale of a pesticide. These include civil and criminal penalties, as well as provision for the mandatory summary cancellation of all registrations issued to a violator and to anyone on whose behalf the violator was acting. In addition, a data submitter could recover damages for violation of the prohibitions contained in these amendments. These penalty provisions will help to preserve the competitive value of proprietary and confidential research data submitted to EPA.

Attachment A

PRODUCT REGISTRATIONS and NOTIFICATIONS - PESTICIDES

by

Marguerite L. Leng and Donald D. McCollister
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Presented at

Seminar on Compliance with International Chemical Regulations
sponsored by the International Affairs Group, CMA and SOCMA

Mayflower Hotel, Washington, D. C.
April 29-30, 1981

List of Countries with Known Pesticide Data Requirements or Registration/Notification Requirements

The attached information is provided as assistance to those attending the seminar on Compliance with International Regulations sponsored by the International Affairs Group of the Chemical Manufacturers Association (CMA) and the Synthetic Organic Chemical Manufacturers Association, Inc. (SOCMA). It was compiled from information available to M. L. Leng in March-April, 1981, and the accuracy and completeness varies widely depending on the source of the information.

The requirements for data are rated on a scale from 0 to 4. A rating of 4 means very extensive data requirements, including several long-term toxicology studies in animals, studies on oncogenicity, reproduction, teratology, mutagenicity, metabolism in plants and animals, data on safety to wildlife and domestic animals, environmental fate, etc. As an example, the data requirements listed separately for the USA are rated 4, whereas data for recommendations by FAO/WHO are rated 3-4 and by the Council of Europe and the European Economic Community about 3. In many cases recommendations from these organizations are adequate support for registration or licensing by member countries. Some countries require proof of registration in the country of origin for an imported pesticide (designated 0) whereas several Latin American countries require a Certificate of Free Sale which has been notarized and approved by the Consulate of the importing country. Some countries register "me-too" products produced by secondary manufacturers on the basis of data provided by the primary manufacturer.

Requirements for Pesticide Support Data

Country	Law	Requirement	Support	Me-Too
Algeria	Yes	1		Some
Argentina	Yes	2-3		
Australia	'55-'80	3-4	FAO/WHO, OECD	Yes
Austria	'48	3	FAO/WHO, O? CE, OECD	No
Bangladesh	'81	?	FAO/WHO	Yes
Barbados	Yes	?		
Belgium	'69-'77	4	FAO/WHO, CE, EC, OECD	Yes
Bolivia	Yes	?	CFS	
Brazil	Yes	3-4	O	Yes?
Bulgaria	Yes	3	O?	
Canada	Rev. '80	4	OECD	No
Chile	Yes	?		
China	('79)	2?	(EPA)	Yes
Colombia	'80	3		
Costa Rica		3	CFS, EPA, O	
Cyprus	'75	2	CE Codex, O	No
Czechoslovakia	Rev. '80	3	Codex	No
Denmark	Rev. '74,'80	4	CE, EC, OECD FAO/WHO	Yes
Dominican Rep.	Yes	?		
Ecuador		2	CFS, O	
Egypt	Yes	3	Codex, EPA	?
El Salvador	Yes	?	EPA, CFS, O	?

CFS = Certificate of Free Sale

O = Registration in country of origin

EPA = US Registration

Codex = Maximum Residue Limit

Country	Law	Requirement	Support	Me-Too
Finland	'69 Rev. '70s	3-4	(CE) OECD	Yes
France	'72 Rev. '79	3-4	CE, EC, OECD	No
E. Germany			O?	
W. Germany	'68 Rev. '71	3-4	CE, EC, OECD	
Greece	'77	2	CE, (EC), OECD, O	No
Guam	None	0	EPA	
Guatemala		1	CFS, O	
Honduras		1	CFS, O	
Hong Kong	'77	2		Yes
Hungary	'68 Rev. '73,'75	3	FAO/WHO, O?	Yes
Iceland		?	CE, OECD	?
India	'68 Rev. '78	3	FAO/WHO, O	Yes
Indonesia	'73	3-4	FAO/WHO, O	No
Iraq	'75	2	FAO/WHO, O	No
Iran	'77	2	Codex, O?	No
Ireland	('82)	?	CE, EC, OECD	?
Israel	'56—'77	?	?	?
Italy	'68	3-4	FAO/WHO CE, EC, OECD	Yes
Japan	'48 Rev. '73,'78	4	OECD	No
Jordan	'75	2-3	FAO/WHO, O	No
Korea	'52-'78 Enf. '80	2	FAO/WHO, O	No

Country	Law	Requirement	Support	Me-Too
Lebanon	No?	2-3		
Luxembourg		?	CE, EC, OECD	
Lybia		1		
Malta		?	CE	
Malaysia	'74 Enf. '81	3-4	FAO/WHO, O?	Yes
Mexico	Yes	3	EPA	
Mozambique		2-3	O?	
Netherlands	'62 Rev. '75	4	CE, EC, OECD	Yes
New Zealand	'58 ('79)	4	OECD, O?	No
Nicaragua		1	O	
Norway	'63 Rev. '70s	4	CE, OECD	Yes
Pakistan	'73	4	FAO/WHO, O?	Yes
Panama		1	CPS, O	
Peru	Yes	2	CPS	
Philippines	'77	4	FAO/WHO, O	Yes
Poland		3-4	O?	
Portugal	'77	2-3	CE(EC), OECD	No
Romania		?	Codex, O?	
Saudi Arabia		1	O	
South Africa	'47 Rev. '82	2-3		No
Spain	'73 Rev. '76	1	CE(EC), OECD	No
Sudan	'74	2	FAO/WHO	No

Country	Law	Requirement	Support	Me-Too
Sweden	'64 Rev. '74	3-4	CE, OECD	Yes
Switzerland		2?	CE, OECD	
Syria	'75 ('82)	2-3	FAO/WHO, O	No
Taiwan	'61, '72	3	Codex, O	Yes
Tanzania	Not enforced	2	O	(No)
Thailand	'70 Rev. '80	4	FAO/WHO, O?	Yes
Turkey	'80	?	CE, OECD	No
United Kingdom	(Rev. '79, '81)	4	CE, EO, OECD	(No?)
United States	'47 Rev. '72-'80	4	OECD	Yes
USSR	Rev. '79	3-4		No
Venezuela	'68	3-4	O	
Yugoslavia	'76 Rev. '77	3	(OECD)	No
Zambia		?	O	

NAM
National Association
of Manufacturers

LAWRENCE A. FOX
Vice President and Manager
International Economic Affairs Department

February 1, 1983

The Honorable John C. Danforth
Chairman, Subcommittee on International Trade
Senate Committee on Finance
Room 460 RSOB
United States Senate
Washington, D.C. 20510

Dear Senator Danforth:

The National Association of Manufacturers strongly supports the Reciprocal Trade and Investment Act, S. 144. By itself, of course, S. 144 cannot solve our country's trade problems. Much of what needs to be done is outside the scope of this kind of legislation. We need, for example, to find some way of ensuring that monetary developments unrelated to merchandise trade do not harm American manufacturers as current exchange rate misalignments do. And we need to take those measures domestically which will make the U.S. economy stronger, more vibrant and hence more competitive.

Even if it does not do everything, however, S. 144 does accomplish three important objectives. First it promises to improve U.S. trade policy by ensuring a greater correlation between U.S. interests and actions. If the Administration is required to identify annually the most serious barriers to U.S. trade, their actions are more likely to be calculated to remove or overcome those barriers. This should be true of all Administration trade initiatives, whether GATT actions, bilateral negotiations, or unilateral action under Section 301 of 1974 Trade Act.

Second, S.144 highlights U.S. determination to strengthen the rules of the international trading system and so increases the likelihood that negotiations to that end will be successful. Existing GATT rules are not adequate to deal with serious problems involving trade in services and investment. As for trade in high technology products, the special treatment accorded the manufacturers of certain of these products in several GATT countries and the reluctance of these countries to eliminate trade barriers for high-tech products is testimony to the importance governments attach to high technology. While the definition of high technology leaves much to be desired, it is clear that the term is meant to apply to industries that are likely to dominate the future economies of the developed countries. It would appear, then, that the ability to reach an understanding on trade in high technology products may in large measure equate with an ability to preserve the open trading system.

Third and finally, S.144 gives U.S. producers a credible promise that their legitimate complaints with respect to "unjustifiable","unreasonable", and "discriminatory" practices by others will be forcefully pursued. While we regard it as essential that the Administration retain considerable discretion in pursuing cases under Section 301 et seq of the 1974 Trade Act, we think the amendments proposed for these sections in S.144 are helpful. In this regard, we were especially pleased to see that both "unjustifiable" and "unreasonable" have been defined so as to include within the scope of both terms failure to provide adequate protection of intellectual property rights.

More generally, we are pleased that services and certain foreign direct investments by U.S. persons are brought within the scope of the word "commerce" as this is used in the suggested amendment to Section 301 of the Trade Act. The fact that this Act provides a legal basis for unilateral action against "unreasonable" foreign trade practices should reassure U.S. industry that the Administration has adequate statutory authority with which to defend U.S. interests. It should also provide whatever incentive may be lacking for other countries to work for international agreements in the difficult areas referred to in the legislation.

We have never had a more serious trade deficit than the $43 billion deficit of 1982. And next year's is likely to be much worse. These unhappy facts both reflect and compound the current recession and unacceptably high unemployment. Pressure for protectionist responses to our problems is an inevitable political consequence of the current economic dilemma. It is critical that those in the Administration, in Congress, and in the business community respond to this challenge by strengthening the international trading system rather than abandoning it. We believe S.144 does this and urge its passage.

Sincerely,

Lawrence A. Fox

Lawrence A. Fox

P.S. I should be grateful if this letter could be made part of the record of the hearings on S.144 scheduled for February 4, 1983.

Honorable John C. Danforth
Chairman, Subcommittee on
International Trade
460 Russell Senate Office Building
Washington, D.C. 20510

Dear Mr. Chairman:

The National Grange had been concerned over the numerous reciprocity bills that have been introduced in the 97th Congress. Our concern was centered on the fact that we were not sure of the effect on agricultural exports if legislation was passed to give the President authority to take retaliatory action if our products do not have the same access to a foreign market as that country's products have in the U.S. market.

The Grange historically has believed in expanding international trade through trade agreements under which tariff and non-tariff barriers to trade can be progressively reduced and eliminated on a reciprocal and mutually-benefitting basis.

We have studied the Reciprocal Trade and Investment Act (S-144) introduced on January 26, 1983, and find it consistent with the fundamental principals of U.S. foreign trade and investment policies. More importantly, we find that it is now compatible with Grange policy regarding trade being conducted on a "reciprocal and mutually-benefitting basis." Furthermore, S-144 strengthens the position of U.S. farmers in seeking relief from unfair trade practices of competing countries and will allow increased accessibility to GATT rules and diciplines for dispute settlements that are so necessary for the expansion of U.S. agriculture exports.

S-144 establishes "fair and equitable market opportunities" for the U.S. as a standard of trade policy. It directs the Executive Branch to inventory foreign barriers and estimate their impact on the United States. Major provisions include:

- An inventory by the Executive Branch of foreign barriers to U.S. exports of products (including agricultural commodities), services and investment, and an estimate of their impact on the U.S. economy;
- Foreign barriers not removed through negotiation or enforcement of the General Agreement on Tariffs and Trade (GATT) could be offset by the U.S. through withdrawal of prior U.S. concessions, imposition of duties, and other restrictions available under present law;
- The President would be authorized to negotiate agreements to encourage trade in services, investment flows and in high technology goods;
- Unfair trade practices under U.S. law would be broadened to cover barriers to investment and infringement on patents and other industrial property rights; and
- U.S. retaliatory action proposed by the President would enjoy accelerated consideration in Congress, in cases where the Presidential action requires additional legal authority.

The National Grange looks forward to working with members of Congress for passage of the legislation in its present form. We would strongly urge that any amendments which are protectionist in nature or which would undermine U.S. international commitments be strongly opposed.

Sincerely,

Edward Andersen

Edward Andersen, Master
The National Grange

EA:khv

cc: Full Senate Finance Committee

STATEMENT OF THE INTERNATIONAL ANTI-COUNTERFEITING COALITION IN SUPPORT OF S. 144

The International Anti-Counterfeiting Coalition enthusiastically supports S. 144, Senator Danforth's proposal to clarify and strengthen the trade laws of the United States. The Coalition believes that enactment of this legislation will greatly aid in alleviating a severe problem which today threatens many U.S. businesses and exploits American consumers -- commercial counterfeiting.

Commercial counterfeiting is the fraudulent practice of affixing a false trademark to a product, which then appears superficially indistinguishable from its legitimate counterpart. The purpose behind this practice is to dupe the consumer into purchasing the counterfeit under the mistaken belief that it is the genuine article, thus defrauding the purchaser and injuring the owner of the trademark, but lining the pocket of the counterfeiter. In recent years, commercial counterfeiting, operating on an international scale, has reached epidemic proportions, resulting not only in the loss of billions of dollars to reputable manufacturers throughout the world, but also in the exploitation, cheating, and even physical endangerment of millions of consumers, and in some instances the impairment of our national security.

According to government sources, American consumers now spend billions of dollars every year on counterfeit merchandise masquerading as legitimate products. Fake "Cartier" watches, for example, made with inferior parts worth only a few dollars and marketed with unenforceable guarantees, are sold to unsuspecting consumers for

$300 to $500. Expensive counterfeit jeans may fall apart after one washing, and even an everyday flashlight may not work because its battery, labelled "Eveready," may actually be one of 17 million counterfeits recently shipped out of Taiwan. Commercial counterfeiting has become so widespread that in the video industry alone an estimated $6 billion of records and tapes are counterfeited annually, while in the fashion industry illegal profits from commercial counterfeiting reached an estimated $450 million in 1980.

Perhaps most ominously, commercial counterfeiting now poses direct threats to health, safety, and physical well-being, and sometimes also to national security. For example, there is substantial evidence that airlines, aircraft manufacturers and even the U.S. military have been supplied with counterfeit parts that are substandard, unconforming, used, or just plain scrap metal. In May 1978, the Food and Drug Administration recalled 357 heart pumps used in 266 hospitals across the country because the $20,000 intra-aortic balloon pumps, which help maintain a patient's heartbeat during open heart surgery, were believed to contain potentially dangerous counterfeit components worth about $8 each. In another instance, the American Medical Association recently drew attention to the growing problem of bogus "look alike" narcotics, so called because they imitate the size, shape and color of amphetamines and tranquilizers and often feature counterfeit trade markings. These counterfeit drugs are believed to have been responsible for at least 12 deaths, while several other victims have suffered paralysis.

Commercial counterfeiting in recent years has become a truly international problem. Although there is an international agreement which declares commercial counterfeiting to be unlawful, the 1883 Paris Convention for the Protection of Industrial Property, this agreement provides no mechanism for the detection and prosecution of counterfeit trademark violations. As a result, counterfeiting enterprises have been allowed to spring up and prosper throughout the world with little or no interference from local or international authorities. Even when counterfeiting enterprises have been identified, there has often been no effort by the local authorities to prosecute and shut down these businesses, even if their activities clearly violate the laws of the country concerned. In some instances, the income from such counterfeiting enterprises is of such importance to the national economy that there is little likelihood that the local authorities, without some pressure from international sources, will ever take measures against such businesses.

For some time, the International Anti-Counterfeiting Coalition has been actively involved in efforts to promote an international understanding on the illegality of commercial counterfeiting. The Coalition presently is seeking agreement to a proposed International Anti-Counterfeiting Code. This Code originally was considered within the framework of the Tokyo Round of Multilateral Trade Negotiations, under the auspices of the General Agreement on Tariffs and Trade, and is still in the negotiating stage. If adopted, the proposed Code would enable trademark owners to seek the assistance of public authorities in all signatory countries to intercept and enforce seizure of all shipments of counterfeit merchandise seeking customs clearance.

The Coalition has also been directly involved in efforts to obtain the cooperation of foreign governments in eliminating commercial counterfeiting. For example, based upon the experience of its members in fighting counterfeiting in many countries, the Coalition and its members have made officials of the government of the Republic of China on Taiwan aware of several changes to existing laws and adoption of new laws needed to combat counterfeiting effectively. It is known that several large and prosperous commercial counterfeiting enterprises are presently operating in the Republic of China in Taiwan. Largely in response to pressure from the E.E.C., the government of Taiwan on August 1, 1981, promulgated a new regulation for its Board of Foreign Trade which could do much to alleviate the counterfeiting problem on Taiwan by requiring exporters to evidence their right to use any trademark which appears on goods being exported from Taiwan. Without evidencing its right to use the trademark, the exporter should be unable to obtain the requisite export licenses. In this connection, the Coalition, with the approval of the U.S. Trade Representative, has offered to supply to the Board of Foreign Trade on Taiwan two lists as an aid to the Board in discharging its new responsibilities under the August 1, 1981 regulation. The first list would identify those trademarks of Coalition members which are licensed for use in Taiwan and the names of the authorized licensees. The second list would identify those trademarks of

Coalition members which are not licenses for use in Taiwan and as to which no certification for export should be granted.

In addition to the Taiwanese government's adoption of new regulations, there have been other indications of that government's intention to eliminate counterfeiting in Taiwan. For example, a new trademark law was promulgated which provides more severe penalties for trademark counterfeiting. Apparently, revisions of the patent and copyright laws are also in process which are rumored to include more effective sanctions as well. Whether such rumored revisions will be enacted, or whether such rumors are intended strictly to placate critics of commercial counterfeiting, is not known. The copyright law revisions have been taking several years, with still no end in sight. Continued delays are indicating placation rather than serious action.

In response to constructive criticism of the counterfeiting problem by the American Chamber of Commerce in Taipei, the Executive Yuan announced the adoption in the fall of 1982 of Ten Measures to Combat Counterfeiting, which if translated into action could be effective in slowing the commercial counterfeiting trade. It is too soon to tell the extent to which such Ten Measures and the subsequent flurry of related announcements made by various ministries will actually result in effective action, although the passage of the new trademark law in January, 1983, is clearly meant as a signal that the government of Taiwan intends to take effective action.

In response to the Coalition's proposal to provide trademark lists, however, the Board of Foreign Trade to date has not agreed to use such lists, which use clearly would aid the Board in carrying out its new responsibilities. Taiwan authorities have also declined to take administrative action to deter counterfeiting of certain U.S. branded fungicide products despite repeated requests of the companies involved and the support of U.S. government agencies. Representatives of Coalition members have visited Taiwan and have reported their impressions that the government of Taiwan does not presently desire to halt the export of counterfeit goods because counterfeiting is simply too important to the economy, although recent developments suggest this may be changing. It is imperative, nevertheless, that the U.S. government make clear to Taiwan, and to all other countries which persist in harboring counterfeiting enterprises, that continued tolerance and even support of such illegal enterprises will not be tolerated. Only when Taiwan and other offending nations are made to realize that severe repercussions affecting their trade with the United States may result from their continued protection of commercial counterfeiting will these governments finally begin to take meaningful action.

The Coalition believes that the reciprocity of trade legislation proposed by Senator Danforth would provide a much needed aid to the U.S. government's efforts to halt international counterfeiting. In particular, the Coalition believes that Senator Danforth's proposed amendments to section 301 of the Trade Act of 1974 will greatly strengthen the ability of both the government and private parties to take effective action against those countries which refuse to provide reasonable and just protection to the commercial property rights of U.S. businesses.

As presently in effect, section 301 provides that the President may take "all appropriate and feasible action within his power" to eliminate acts, policies, or practices found to be, among other things, "unjustifiable, unreasonable, or discriminatory. . . " Section 301 further provides that the President may retaliate against such practices by suspending, withdrawing, or preventing the application of benefits of trade agreement concessions with the foreign country involved, and by imposing duties or other import restrictions on the goods and services of that country. S. 144 proposes at least two clarifications of existing law which would make section 301 a more effective remedy against international counterfeiting.

First, S. 144 would clarify the meaning of the terms "unjustifiable, unreasonable, or discriminatory" as used in section 301, which presently are not statutorily defined. Senator Danforth's bill would add to section 301 a subsection (d), which would state in pertinent part:

> (3) Definition of Unreasonable. --The term "unreasonable" means any act, policy, or practice which, while not necessarily in violation of or inconsistent with the international legal rights of the United States, is otherwise deemed to be unfair and inequitable. The term includes, but is not limited to, any act, policy, or practice which denies fair and equitable --
>
> (A) market opportunities;
>
> (B) opportunities for the establishment of an enterprise; or

> (C) provision of adequate protection of intellectual property rights.
>
> (4) Definition of Unjustifiable. --
>
> (A) In general. --The term "unjustifiable" means any act, policy, or practice which is in violation of, or inconsistent with, the international legal rights of the United States.
>
> (B) Certain actions included. --The term "unjustifiable" includes, but is not limited to, any act, policy, or practice described in subparagraph (A) which denies national or most-favored nation treatment, the right of establishment, or protection of intellectual property rights.

(Emphasis added).

In clarifying the scope of existing law to make clear that violation of industrial and intellectual property rights[1] would be grounds for retaliatory action under section 301, S. 144 not only would provide a much needed expression of congressional intent, but also, and perhaps most importantly, would send a clear message to those countries which continue to flout the commercial property rights of others that the United States will not continue to permit any country, including its trading partners, to condone and protect international counterfeiting.

A second area in which S. 144 would clarify existing law is in stating more precisely the scope of the retaliatory powers which the President may take once a violation of section 301 has been shown. Senator Danforth's bill would amend section 301 to provide expressly that the President may exercise his retaliatory authority under section 301 "without regard to whether or not such goods or sector were involved in the act, policy, or practice. . ." identified as a violation of section 301.

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[1] The report of the Senate Finance Committee on S. 2094, the predecessor of S. 144, states that "[t]he term 'intellectual property rights' is intended to be understood in the broadest sense and shall include patents, trademarks, trade names, copyrights, and trade secrets." Thus, commercial counterfeiting would be both an "unreasonable" and "unjustifiable" act within the meaning of section 301 as proposed to be amended.

This provision is sorely needed in order to make feasible meaningful action against those countries which persist in protecting international counterfeiting. If the scope of the President's retaliatory authority were confined to those goods actually involved in the counterfeiting scheme, there would be little incentive for the country from which those goods originated to take action against counterfeiters. The foreign government involved would be content to let individual counterfeiting enterprises run the risks of detection and retaliation against the counterfeited goods. Only when the U.S. government makes clear that continued protection of counterfeiting will put at risk not only counterfeited goods, but also other non-counterfeited goods, services, and investments originating from the country harboring the counterfeiters, will that government have an incentive to eliminate exports of counterfeited goods to the United States. S. 144 again sends a clear message to these governments that their continued protection of counterfeiting enterprises may result in significant repercussions with respect to their trade with the United States.

The International Anti-Counterfeiting Coalition believes that the clarifications of the existing section 301 contained in

Senator Danforth's bill will greatly aid both private and governmental efforts to eliminate the potentially disastrous effects upon American consumers and businesses which may result from the continued existence of commercial counterfeiting. Enactment of S. 144 would send a clear and hopefully convincing message to those foreign governments which continue to harbor commercial counterfeiters that the United States will not permit such action to continue unchallenged. Only when these governments are persuaded that the United States will respond rapidly and effectively with a broad range of political and economic measures will they begin the task of ridding their economies of this illegal and pernicious element. For these reasons, the International Anti-Counterfeiting Coalition supports passage of Senator Danforth's proposed reciprocity of trade legislation, S. 144, and urges the members of the Senate to take prompt action on this legislation.

Feburary 17, 1983

The Honorable John Danforth
Chairman
Subcommittee on International Trade
Committee on Finance
U.S. Senate
Washington, D.C. 20510

Dear Senator Danforth:

Our Association is in agreement with the aims and approach of the Reciprocal Trade and Investment Act of 1983 (S. 144). In past testimony before the Congress we have suggested solutions to the International trade and investment problems facing the United States. Over a decade ago, in May of 1972, we testified that "negotiations seeking reciprocal treatment in other markets in exchange for the relatively open market we maintain is part of the answer" to helping make American industry more competitive in the international market. Today, I believe, we are beginning to see the urgency of this approach regarding both trade and investment.

IEPA is a nonprofit research organization established in 1957 to deal with international economic issues affecting the national interest and U.S. business. We have specialized in the U.S. balance of payments, international trade, investment, taxation, and raw material issues and have published many works on these subjects. Our latest book, of which you have a copy, on U.S. Foreign Economic Strategy for the Eighties outlines a broad approach to U.S. international economic policy, one which we are happy to see reflected in S. 144.

The major bargaining chip which the United States has in its efforts to retain the open world trading system, which IEPA supports, is control over foreign access to our own markets. Such access should be used as an inducement to other nations to shun protectionism, use market principles, and maintain a free trade system. To yield access to our markets in exchange for illusory gains abroad without being able to adjust on a reciprocal basis for adverse changes in the world trading system does not serve the U.S. interests. While it is difficult for Congress to legislate about the details and tactics of negotiations, it can place in the hands of the Executive the powers needed to take action against unfair practices. We believe that S. 144 provides such tools. As the United States is denied fair and equitable opportunities to compete abroad, our international accounts will suffer, as will our economy.

We are most pleased by the sections in S. 144 relating to investments and services. Since the end of the 1960's, we have urged recognition of services as a large earner of foreign exchange in our international accounts. In 1971 we suggested that service industries be afforded the same type of treatment given to other exporters under the DISC provisions. In 1972 we urged that services be included and defined in the Trade Act of 1974. Unfortunately, even then the issue of services was not considered important enough to warrant separate attention. It was not until 1979 that a more specific definition was finally accepted in the Trade Agreements Act of 1979. Now, when services represent one quarter of our foreign exchange earnings in the balance of payments, S. 144 will give us some means to guard against unfair nontariff barriers erected by foreign nations and to encourage them to negotiate in this area.

We believe that investment reciprocity is especially important to maintaining an open and free world trading system in goods. Department of Commerce figures show that a third of U.S. exports go to American firms abroad. This represents over $80 billion and reflects the pull effect of U.S. direct foreign investments. Performance requirements and other hindrances to doing business overseas will ultimately place even more protectionist pressures on our political leaders. Trade and investment are closely intertwined and any reduction in U.S. investments abroad would reduce U.S. exports and cause a slowdown in the increase of employment opportunities here at home. The erosion of our asset base abroad through various nontariff barriers would mean that a growing portion of the over $400 billion worth of sales made by U.S. foreign affiliates abroad might be lost; and it would be unreasonable to assume that direct exports from the United States could make up the magnitude involved.

We believe that the past resistance of the Japanese, for instance, to allowing U.S. investments into their market may have been a major contributing factor to some of the lopsidedness we are now seeing in our two-way exchange of trade. For example, in the mid-1960's, U.S. automobile companies tried in vain to invest in Japan but were rebuffed. In the late 1960's and early 1970's, the U.S. manufacturers tried for minority equity interests but again were denied the opportunity. It was only after the Japanese had developed full automobile production facilities, supplying a growing number of cars to the world market (and after the U.S. Government exerted substantial pressure) that U.S. investments in Japanese automobile companies were allowed. If U.S. companies had been able to invest in Japan back in the 1960's, the picture might have looked somewhat different today in terms of the enormous drain on the U.S. trade account and the protectionist pressures that trade imbalance is now causing. A symmetry between trade and investment is needed to maintain reciprocity in commercial relations among nations. (Centrally planned economies such as Eastern Europe, where trade is "managed" for its foreign exchange value, are an obvious exception).

One feature that we find missing from S. 144 is language to deal with the fast-changing nature of the world trading system. Over the years, the most-favored-nation GATT system served the world community well in increasing the wealth of nations and opening up new markets for U.S. exports. Today, however, industrial changes are taking place at a much more rapid rate, especially in the new high technology industries. The GATT system does not provide an effective and adequate mechanism to reevaluate past concessions and to adjust the open world trading system to substantial changes in the environment or in major directions of trade. For example, it was during the Kennedy Round negotiations which ended in 1968 that the United States settled upon the final tariff levels for world automobile trade. We properly negotiated with the second largest producer of automobiles in the world -- not Japan, but rather Western Europe. History shows that the United States never had frictions in automobile trade with the Western European nations of the intensity that we now have with Japan. This is because there was a balance and openness in both trade and investment in that product. But Japan was able to sit on the sidelines, build up their own automobile industry behind protective barriers, and take advantage of the most-favored-nation clause. In essence, they practiced managed comparative advantage which placed other nations at a serious disadvantage! Some way (preferably multilateral) must be found to deal with radical changes of this nature in the flow of goods through the world trading system, for the same scenario is now playing out with regard to the high technology computer industry.

The world trading system appears to be moving more and more toward a conditional most-favored-nation regime, through GATT in some areas and bilaterally in others. For instance, the Tokyo Round codes are conditional. A country that does not sign the government procurement code cannot claim reciprocal benefits in other nations. Tariff levels, on average, among industrial countries are minimal -- in the five or six percent range which is usually outweighed by currency fluctuations alone -- and most trade barriers today are of a nontariff nature. These kinds of barriers are very difficult to quantify, and are thus harder to handle on an unconditional basis, especially multilaterally.

The ideal might be to have world trading nations convert their nontariff barriers into tariff levels so that they could be negotiated away on an equal basis. Unfortunately, to quantify nontariff barriers becomes an extremely difficult chore, with mutual agreement among nations on the final figure almost impossible. In addition, the United States generally has fewer nontariff barriers than other countries and, once they were converted to tariff levels, assuming it could be done, we would be bargaining from unequal positions. For these reasons, the principle of reciprocity embodied in S. 144 is extremely important and crucial for the next decade in trying to reopen and maintain a free trading system.

It seems ironic that even as the Senate is considering the Reciprocal Trade and Investment Act, the Administration is reportedly planning to approve exploration of minerals on U.S. lands by foreign-owned interest whose countries do not reciprocate for U.S. or other foreign companies. The Department of Interior may shortly rule that a list of countries, including Kuwait, Saudi Arabia, Mexico and others, are not forbidden by the reciprocity clause in our federal minerals laws from searching for oil, gas, and minerals on federally owned tracts of land. These countries do not allow majority ownership, or in some cases, any foreign ownership in this sector, yet they are apparently to be certified as "reciprocal". This is a determination which we are sure Congress will want to -- and should -- challenge, not so much on the substantive merits as on the procedural point of reciprocity.

If we allow our investment base abroad to be eroded by acquiescing in non-national non-reciprocal treatment of U.S. investors, there will be growing problems for the U.S. balance of payments; and the government's ability to finance its overseas activities, whether in the economic assistance or security area, will be impeded. Thus I hope that, whether or not specifically included in S. 144, Congress will explore ways of requiring the Executive branch and independent regulatory agencies to consider reciprocity aspects (possibly on the basis of a determination by the USTR) in granting regulatory approvals to foreign investors in this country.

In conclusion, we congratulate you and your colleagues on the reworking of the Reciprocal Trade and Investment Act so as to provide positive incentives to our trading partners without invoking U.S. protectionism. We hope that the Executive Branch will be persuaded to implement the philosophy of S. 144 in its dealings with other countries.

I hope, Mr. Chairman, that these comments can be made a part of the hearings record on this important legislation.

Sincerely,

Timothy W. Stanley

Timothy W. Stanley
President

Statement of Loren Sorensen
Varian Associates
for the American Electronics Association
Before the
Subcommittee on International Trade
Committee on Finance
United States Senate
February 18, 1983

Mr. Chairman and Members of this Distinguished Committee:

I am Loren Sorenson, Manager of Export Services for Varian Associates based in Palo Alto, California. Varian manufactures microwave tubes, medical and industrial products and semiconductor equipment. We have a vital interest in international trade and in U.S. policies which can affect that trade. I am submitting written testimony on behalf of the American Electronics Association, of whose International Committee I am Chairman. AEA is a trade association of 2,000 plus electronics companies in 43 states. Our members manufacture electronic components and systems or supply products and services in the information processing industries. Our member companies are mostly small rapidly growing businesses currently employing fewer than 200 people.

AEA member companies have a vital stake in exports and international trade. In some of the larger companies, half of their sales are to overseas customers. Electronics companies contribute a favorable balance of trade as a partial offset to an unfavorable balance incurred by oil and other imports. In 1981, electronic products produced a favorable trade balance of over $5 billion dollars, with electronic industrial products contributing a favorable balance to excess of $10 billion dollars.

AEA appreciates the leadership you and the members of the Subcommittee have shown in focusing Congress' attention and concern on the problems U.S. firms face abroad. We believe that this country must be forthright and aggressive in pursuing our trade and investment interests and rights. This coupled with the enhancing tax measures you passed last year, will go a long way toward insuring the future competitiveness of U.S. electronics industries in world markets.

AEA believes that today we are at an important point of time for U.S. trade and investment policy. Great pressure is being placed on the GATT system of international trading rules because of what it does, and what it doesn't do. On the one hand protectionist forces, pointing to the visible effects of the current worldwide recession, are getting stronger both here in the U.S. and abroad. The political pressure is real to raise new tariff and non-tariff barriers to product exports, and to reinforce existing ones. On the other hand, increased use of "industrial policies" is resulting in protectionist mechanisms that are not covered by the GATT rules, but which threaten to undo the significant progress made since GATT negotiations began in 1948.

OBJECTIVES OF TRADE LEGISLATION

AEA has assessed these domestic and foreign political pressures, and analyzed carefully several bills introduced by Congress. We believe now is the time for the U.S. to do all it can to resist protectionism here and overseas by working to shore up the GATT system and too expand the system of international rules to cover foreign investment and services. By initiating and passing appropriate legislation, Congress can address this dual threat to continued expansion of world markets by providing our negotiators the statutory backup and policy guidance they need to be successful in this critical endeavor. We think it is important that any legislation in this area:

- be consistent with the letter and spirit of the GATT system and United States' obligations thereunder;
- mandate and authorize the President to negotiate bilateral and multilateral treaties covering foreign direct investment and trade in services.
- expand the authority of the President under Section 301 of the Trade Act of 1974 to respond to foreign barriers to U.S. foreign direct investment;
- call on the Trade Representative and the Secretary of Commerce to compile an inventory of foreign non-tariff barriers to U.S. exports of products and services, and foreign direct investment;
- require a periodic report to Congress by the Trade Representative and Secretary of Commerce on the steps planned or taken to have these foreign barriers reduced or eliminated; and
- provide essential special attention on the high technology sector.

Senator Danforth's S.144 "the Reciprocal Trade and Investment Act of 1983" meets our objectives and we endorse this bill.

Let us now discuss our reasoning in light of some of the major difficulties our members increasingly face abroad.

HIGH TECHNOLOGY

If we examine our trade performance over the last two decades, it's clear that our R&D intensive, high technology industries are performing well in holding up the U.S. balance of trade. Our non R&D intensive, less competitive industries are in trouble, some partly because of foreign industrial policies that have targeted these sectors for special attention.

The U.S. has a distinct comparative advantage in high technology manufactured products and related services. Unfortunately, nearly all countries, industrialized as well as the Less-Developed-Countries, want to have their own high technology industries precisely because of the benefits the United States now reaps from them: new and better jobs, increased productivity, greater income and the better standard of living which results. Consequently, many governments have targeted this sector for intervention via industrial policies, combining protectionism and active support.

Our industries require a worldwide market in order to support the increasingly expensive R&D and capital investments needed to stay in the forefront of technology and meet customer needs. The U.S. needs to be aggressive on efforts to keep these markets open to competition based on price and quality, other than on national origin. If the U.S. does not, we run the risk of losing the enormous benefits that our technologies can bring to the United States and to other countries. In our industry, we're only seeing the crudest beginnings of what can be accomplished to improve productivity and raise the world's standard of living.

FOREIGN INVESTMENT BARRIERS

For the last several decades, the U.S. has led the way in getting other countries to reduce their tariff barriers to U.S. product exports. As these feasible tariff barriers have come down, however, new, more subtle non-tariff barriers appeared. While the Tokyo Round MTN agreements addressed some of these non-tariff barriers, many remain.

Unfortunately, some of the most serious of the non-tariff barriers are ones which are not covered by any multilateral rules, namely restrictions on foreign direct investment. This situation has been in part caused and compounded by two factors.

One, U.S. international investment policy has been neutral. That is, U.S. policy has been one of neither encouraging nor discouraging flows of direct foreign investments, and Congress has chosen to lead by example and by avoiding barriers to foreign direct investment in the U.S. Unfortunately, we haven't coupled this exemplary role with aggressive efforts to see that it is followed by others. At the same time, our negotiators' attention has been focused on efforts to reduce barriers to products trade under the GATT.

This neutral and passive policy has been undergoing review and consideration by the Executive Branch, and we are encouraged by actions which signal its increased priority status on the United States Trade Representative's agenda.

Two, the public discussion of this issue is quite sensitive for United States firms. Companies do not complain openly because they fear retribution. For years they have had to grapple with investment restrictions on their own, due in large measure to the lack of an aggressive United States policy. In some countries, firms have been able to negotiate agreements, often skewed in favor of the host nation, but which at least give them some limited access. These arrangements are something less than secure and subject to change at any moment. Because they are so tenuous, most firms are understandably reticent to be indentified publicly with any criticism of the governments involved.

But that's not because the problem is not wide spead. It is. Restrictions on foreign direct investment are formidable, especially for the smaller firm.

In our industry in order to sell computer systems or other high technology products to customers overseas there must be a commitment -- made by us -- to provide service and maintenance for the products we sell. We must have the ability to establish local subsidiaries for these purposes. It is for this reason that we view investment and trade as two sides to the same coin. Their interaction is vital since they provide mutual support for each other in world competition. The ability to invest in manufacturing, sales and service operations is a primary vehicle of trade today.

For young companies, the most onerous of these are restrictions on our ability to establish local, majority owned sales and services subsidiaries that we can manage properly. In an increasing number of countries, we cannot now establish such subsidiaries unless we are willing to surrender majority ownership to a local partner, and hence, our control over the operations, and over our technology which we developed at great expense. The ability of an American company to take advantage of business opportunities in a rational and timely way is limited if it has approval for such actions. The majority owner may have no interest in our knowledge of the business and may be unable to appreciate the dynamics of the situation as they arise.

There are a host of other restrictions on foreign direct investment, including export performance requirements, demands that a certain percentage of the final product contain materials or technology that is "sourced" locally, requirements that the foreign firm transfer the technology or "knowhow" either immediately or after a certain period of time, requirements for local training and conduct of R&D within the host country, and so on. In combination, these restrictions make it unattractive for U.S. firms to invest. Unfortunately, in many cases a decision not to meet these demands may deny a U.S. firm from fully participating in these markets.

Mr. Chairman, companies such as AEA represent are not out simply to take advantage of an economy, and then exit without leaving anything behind. We are interested in complete, long term involvement in those economies, which means realistically contributing to the local infrastructure and technology base. But these contributions flow naturally from the demands of our business. They cannot be dictated by government fiat. We have a mutual interest which can be met only by allowing a competitive, fast-moving business to be managed like one.

With these kinds of problems in mind, we strongly support legislation that would mandate and authorize our negotiators to seek bilateral and multilateral agreements to reduce the trade and capital flow distorting effects of such investment restrictions. In the short term, bilateral treaties are the practical solution. We would be following the practices of France, Germany, Japan and others in doing so. The longer term objective should be multilateral solution, based on the numerous bilateral arrangement that could provide the necessary momentum for new international rules.

We also welcome expansion of the President's authority to respond under Section 301 if such negotiations are unsuccessful and such practices continued unjustifiably and unreasonably to burden, restrict, or discriminate against U.S. negotiators presently having little leverage in this area. Presidential authority to respond would provide an appropriate and needed bargaining tool.

INVENTORY OF NTBS TO PRODUCTS, SERVICES AND FOREIGN INVESTMENT

AEA supports legislation to require the USTR and the Commerce Department to develop an inventory of the major non-tariff barriers abroad to U.S. product and service exports, and foreign direct investment. We also support provisions that would require periodic reports to the Congress on the steps the United States Trade Representative has taken, or plans to take, to have these barriers reduced or eliminated.

CONSISTENCY WITH THE GATT

Since the creation of the General Agreement on Tariffs and Trade (GATT) the United States has taken the lead role in efforts to persuade our trading partners to adopt the GATT's basic multilateral principles of national and most-favored-nation treatment, and thereby reduce world barriers to product exports. In asserting this leadership role, Congress has deliberately chosen to lead by example by passing trade laws to mirror those of the GATT; I think that it is fair to say that without the U.S. commitment, there would be far more trade barriers abroad than there are today.

AEA believes it is absolutely vital that the United States not abdicate this leadership role. Any action that would compromise this role would likely lead to greater barriers to our product exports. There are many countries which would welcome an excuse to bend to domestic pressures and erect new import restrictions. There are others which might well feel compelled to retaliate if United States legislation were to affect exports negatively. And chances are good that our strongest, most competitive, exporters would be the ones to bear the brunt of either reaction. The negative consequences for jobs, income and related tax revenues could be enormous if this were to occur.

The GATT currently provides for reciprocity under mutually agreed procedures and rules. AEA supports that process. AEA therefore would support legislation which would reinforce the U.S. commitment to that process. We would thereby support its continued use in assessing whether a given country or group of countries is measuring up in an overall sense, given the specific circumstances, to its trade agreement or GATT obligation and responsibilities and thereby be eligible for future U.S. trade concessions.

AEA opposes legislation that would allow unilateral retaliation or require bilateral "reciprocity" outside the GATT on an industry sector or product basis. Such legislation would fly in the face of GATT principles and obligations, and would invite protectionism and retaliation here and abroad.

We must aggressively enforce abroad our trade and investment rights and interests. We cannot afford to abdicate our leadership for free and open markets for trade and investment. We must be aggressive at home in resisting the temptation to raise trade barriers. And we must be forward-looking and see to the needs of our strongest industries before the weight of barriers abroad become so heavy as to be politically too difficult to eliminate. Viewed from our perspective, we no longer have the luxury of time. We need legislation and policy that addresses these objectives now.

U.S. Council for an Open World Economy
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Statement submitted by David J. Steinberg, President, U.S. Council for an Open World Economy, to the Subcommittee on International Trade of the U.S. Senate Committee on Finance in hearings on S.144 (The Reciprocal Trade and Investment Act)
February 16, 1983

(The U.S. Council for an Open World Economy is a private, non-profit organization engaged in research and public education on the merits and problems of developing an open international economic system in the overall national interest. The Council does not act on behalf of any private interest.)

I applaud once again the emphasis placed by the Administration and many members of Congress on the need for other countries, especially the most economically advanced, to remove barriers that unfairly obstruct access to those markets for U.S. goods, services and investment. However, it is once again my view that neither the Administration's trade-policy agenda nor the trade bills that have been introduced in Congress adequately address the nation's needs in this regard. S.144 (The Reciprocal Trade and Investment Act) is currently the centerpiece of these efforts on Capitol Hill. The bill's major provisions include bringing services and investment within the scope of the President's authority (Section 301 of the Trade Act of 1974) to retaliate against unfair foreign practices deemed harmful to our country's international business interests. The bill would authorize negotiations to secure fair, open access abroad for U.S. services and investment, and for U.S. high-technology products per se. Such legislation may strengthen procedures and political will for seeking equity for American goods, services and investment in foreign markets. But the bill tends more toward retaliation against allegedly unfair impediments -- as a device to get these barriers removed, though possibly counterproductive -- than toward steady, substantial progress toward freer, fairer international commerce on a truly reciprocal basis. Nor are the bill's provisions for securing fair treatment abroad for U.S. services and capital, respectively, likely to produce substantial benefits for the United States without a comprehensive free-trade initiative (not now on our national agenda) embracing all forms of international business. The highly touted effort to achieve reciprocally lower barriers to trade in high-technology products suffers similar inadequacy.

The support this bill has received from the Administration and much of the "liberal trade" community seems based, in large part, on relief that the protectionist dangers in previous versions of this bill have been lessened, and perhaps on the hope that such legislation might defuse attempts at blatantly protectionist legislation. If nongovernment supporters of this bill (including the Business Roundtable, the National Association of Manufacturers, the Chamber of Commerce of the United States, and the Emergency Committee for American Trade) see this bill as constituting an adequate trade strategy for the 1980's, they corroborate the serious inadequacies I detect in the liberal-trade movement. Liberal-trade organizations which to date have not given this bill their support (e.g., those representing importers, retailers and consumers) are themselves delinquent in their grasp of the foreign-economic and domestic-economic strategies that should top our national agenda in this policy area. If, as the U.S. Trade Representative has said, this is the most difficult time we have faced in international trade policy since World War II, then this is a time for much more than the Administration is seeking, than anyone in Congress is seeking, indeed more than the liberal-trade community (almost without exception) is seeking to address this critical problem.

The Administration has no strategy for rapid, far-reaching progress toward a truly open world economy. It has a loudly proclaimed free-trade stance, but not a free-trade strategy. Its plans fall far short of the dramatic initiative needed to save the world economy from the deeper protectionist pitfalls into which it may slip during this perilous period for all countries. The other contracting parties of the General Agreement on Tariffs and Trade may not be ready for anything more than "work programs" on longer-term issues and reviewing implementation of the fair-practice codes negotiated in the Tokyo Round. But the United States should not lower its sights to the lowest common denominator. S.144, however, does not raise the world's sights, or our own, high enough. It is not even well-calculated to advance the limited goals for which the bill is designed. The United States needs to raise its own sights and those of the world to the need to seek, with deliberate speed, the freest and fairest international economic system -- indeed optimum reciprocity through negotiation of a free-trade charter (embracing goods, services, investment, etc.) with as many industrialized countries as wish to join us in this venture. There would have to be special privileges and commitments for underdeveloped countries in their relations with the free-trade area. Once one or more advanced countries negotiated such an agreement with the United States, all would do so sooner or later.

Progressive, Not Regressive, Reciprocity

While much more can and should be done to advance the cause of true reciprocity in the sense so assiduously nurtured with such rewarding results in the last half-century, the least we can and should do is resist a revisionist redefinition that would set in motion bilateral, trade-restrictive reactions (and counter-reactions) to the alleged failure of certain countries to permit U.S. access to their markets substantially equivalent to their access to the U.S. market. This concept of reciprocity, while possibly inducing some liberalization in certain cases, runs the general danger of ratcheting import barriers higher not lower, and the level of world trade lower not higher. The U.S. economy could hardly benefit from bilateral reciprocity maneuvers that (a) sock American consumers, (b) sacrifice import-dependent and export-dependent American jobs in the wake of retaliatory or emulative reaction abroad to U.S. import-restricting tactics, and (c) suppress the beneficial effects of freer imports on U.S. productivity and overall competitiveness. Such results would do little to "foster the economic growth of, and full employment in, the United States" (a prime objective of S.144).

The champions of "reciprocity" should want reciprocity in its finest sense. If so, totally free trade, fused with totally fair trade (including rules for ensuring fair exchange rates) should be the length and breadth of their perspective. If indeed the objective of reciprocity is fairness, attention should be given to the fact that the most far-reaching progress toward totally fair trade will not be achieved unless impelled, in fact compelled, by negotiated removal of all discriminatory impediments to international commerce in accordance with a realistic timetable (permitting strictly controlled departures to help deal with unforeseen emergencies). No reciprocity bill now in Congress could possibly ensure significant progress toward this concept of optimum reciprocity and consummate fairness in international commercial relations.

Senator Glenn (a cosponsor of S.144) has said: "We can no longer afford to pursue the ideal of free trade unless our trading partners are willing to reciprocate." If this be so, and since our own practice in this policy area falls substantially short of our preaching, we should invite our trading partners (at least the economically developed countries) to join with us in negotiating a charter that, at long last, programs totally free and totally fair international trade. Senator Danforth (the initial advocate of S.144, and of a similar measure in the last Congress) has said: "It is time for us to embark on a comprehensive effort to assure fair treatment for American exports in foreign markets. The Reciprocal Trade and Investment Act is designed to do just that."

If it is time to take long strides toward fairness, indeed (as we should) toward the greatest possible fairness, then this bill is a poor vehicle. There will not be a contract for completely fair international commerce without a contract for completely free international commerce. Senator Danforth says that S.144 is needed (spurring retaliation against substantial and unfair barriers to U.S. access to foreign markets) because U.S. import concessions have not been reciprocated by our major trading partners, putting us "in a weak position to bargain for mutual concessions by other countries, for there are few American import concessions left to trade away for market access abroad." His legislative remedy, reviving a protectionist ploy I can remember from decades back, would not achieve the reciprocal, equitable market access he says is his aim. It would be more likely to ratchet barriers upward and muddy the channels of international discourse on how to achieve truly reciprocal, increasingly freer international commerce.

Senator Danforth has said that to secure bilateral equity "the United States must be prepared to force the issue," seeking, not necessarily rigid sector-by-sector, product-by-product equality, but the requirement that "other countries play by the same rules we observe," and to achieve this without violating trade agreements. However, notwithstanding his contention that executive action under this legislation would be discretionary with the President ("the bill strengthens the Administration's hand without forcing it"), the new conception of reciprocity (if in fact it can be reconciled with existing U.S. trade agreements and if in fact it is meant to be enforced) would engender political pressures and government actions harmful to the objective of freer and fairer international economic relations.

How is bilateral reciprocity to be measured? By what standards, and whose standards? Is each country free to decide reciprocity, and act on this assessment, in any way it chooses? What assurance can there be, and how enforced, that whatever standards are used will be applied indiscriminately and with equal intensity to all countries? Instead of forcing the issue of equity in trade relations, might we not shoot ourselves in the foot -- or worse? If negotiation of the free-trade charter I am advocating, and the optimum in multilateral reciprocity which this would engender, seems a fanciful, formidable undertaking fraught with unlimited complexities, how much less formidable, more manageable and more helpful would be a train of trade-restrictive actions and reactions under the rubric of bilateral reciprocity projected by bills like S.144?

Dealing with Japan

There is an urgent need to change attitudes in Japan and elsewhere concerning international trade -- to persuade these countries to give as much attention to removing import impediments as they give to expanding exports. Referring to Japan's attitude as partly to blame for the current confrontation over that country's import policies and practices, one commentary noted that "the biggest barrier to (Japanese) imports today is a state of mind," and that pressures to get it changed have brought Japan and the West "to the edge of a mutually destructive trade war." This state of mind, I believe, may be traceable in part to something bordering on paranoia in Japan over the country's poor endowment in fuel and raw materials and its overall economic vulnerability in a highly uncertain, undependable world economic environment. Bills in Congress to persuade Japan to be more cooperative seem thus far of a kind that would only aggravate the troublesome Japanese state of mind. As will the threats of Congressional protectionism emanating not only from Congress but from various quarters of the Executive Branch. High-level officials of the Department of Commerce in particular (in various administrations including the current one) have pursued this tactic as if it had been mandated by their oaths of office or prescribed by administrative manuals for their respective posts.

Japan and other countries should be more sensitive to our country's pleas for as much fair play in access to their markets as we accord them in our market. But we should be more sensitive to the danger that, if we force the issue in the wrong way, harmful retaliation and emulation in trade policy may not be the only result. The U.S. image as an ally and a leader might be tarnished, with implications that far transcend international commerce. We could conceivably get much more cooperation from Japan if we sought that country's participation in a free-trade charter than is likely from the kind of pressure the United States has used so often in the past and is envisaged in the current pattern of "reciprocity" bills.

Such an initiative would entail programmed removal of barriers our own country imposes and to which other countries take serious exception. The fact that Japan and other countries resist U.S. requests for removal of their barriers and other trade distortions may have much to do with a shortage of credibility in America's protestations of devotion to free trade. Our own resort to import restrictions on many products, and most recently our pressure on Japan to curb its exports of automobiles to the United States even though imports did not cause the severe problems of the U.S. automobile industry, have not done much for our image as champions of free trade.

Sector Reciprocity or Harmonization

Except in special situations and pursuant to carefully defined standards, sector-by-sector reciprocity is foreign to any reasonable, practical and responsible concept of international-trade reciprocity. However, with most countries moving inexorably and in many cases rapidly toward increasingly more sophisticated forms of economic development, there is growing need for narrowing and ultimately removing the differences between the barriers which at least the more advanced countries impose on imports of various products, especially manufactured goods. The best known example of proposed sector harmonization is trade, services and investment in the field of high technology. Bills to this end have been introduced in Congress. S.144 is such a bill. There are many less exotic instances where sector harmonization (aiming at free trade in these areas) is an idea whose time has come. Steel is an example. The U.S. steel industry has often said it would do well under conditions of free and fair trade on the part of all producing countries (certainly the most significant producers). Other industries have made similar claims. We should undertake negotiation of such arrangements, including carefully drawn rules to ensure fair international competition in these products, and backstop such initiatives with redevelopment strategies in the respective industries.

However, the prospects for much progress toward free-and-fair trade in individual sectors seem dim except as part of a comprehensive free-trade charter under which optimum reciprocity for each participating country in goods, services and investment, respectively, and across the whole range of international business dealings, may be ensured.

Conclusion regarding S.144

There are parts of S.144 that merit support. These include authorization for negotiations to achieve equitable market access in services, investment, and high-technology business per se, although substantial progress in these fields (individually or collectively) is not likely outside the framework of a free-trade charter embracing all forms of international commerce. No bill in Congress or statement by the President projects such an objective. I shall not allow my advocacy of the strategy proposed in this testimony to deter my support for measures less ambitious. Half a loaf may be better than none at all. However, I have reached the conclusion that S.144 is conceptually not acceptable as even half a loaf.

Besides encouraging political pressures and executive and Congressional maneuvers that seem likely, on balance, to increase trade restrictions, and besides its shortcomings with respect to the new negotiations it authorizes, such legislation -- setting the tone and the scope of U.S. trade policy for many years to come -- would divert the energies of government from what urgently needs to be sought in this major policy area. The United States needs to get tough in trade policy, but in a way that reveals toughmindedness about the objective at which this nation and the world economy should aim and how to make it politically palatable at home and abroad. Without a dramatic strategy of such proportions, the danger of slippage into deeper protectionism is considerable.

If Congress insists on passing the likes of S.144, I urge at least the following amendment: that, in estimating the trade-distorting impact on U.S. commerce of foreign policies or practices impeding U.S. business, and in retaliating against such barriers or proposing legislation to counter them (Sections 3 and 4 of the bill), the President should be required to assess the cost to the nation of any such countervailing action and make such estimates public.

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